



Draft National Forest Policy 2018

*A Conspiracy to Deny the Rights
of the Scheduled Tribes*



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1. Executive summary & recommendations

The Ministry of Environment, Forest and Climate Change (MoEF) of the Government of India published the Draft National Forest Policy of 2018 on 14 March 2018 inviting comments/ suggestions/ views of stakeholders including public/private organizations, experts and concerned citizens within one month i.e. 14 April 2018. The Government of India is expected to finalise the Draft National Forest Policy soon.

This draft National Forest Policy provides for adoption of a completely new legal framework discriminatory towards the indigenous peoples and further it seeks to take away the rights of the indigenous peoples already recognized under the existing laws, “in particular for the purpose of exploitation of natural resources” i.e. an estimated 10,941,652 acres or 4,429,818 hectares of “community forest” for which titles have been issued to the indigenous peoples under the Forest Rights Act (FRA) as of August 2018¹ and 22,938,814 hectares of forest area² covered under the Joint Forest Management (JFM) Committees since 1990. The area constitutes about one-third of India’s total forest cover.

It is pertinent to mention that the Ministry of Environment and Forest of India had established the Joint Forest Management Committees (JFMCs) under executive orders in 1990. As these Committees were established under executive order, the JFMCs have no legal basis.

In 1996, Section 4(m)(ii) of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act of 1996 (PESA) recognized the powers and authority of the Panchayats and the Gram Sabhas (Village Councils) in the Scheduled Areas i.e. areas inhabited by indigenous peoples and notified by the President of India, with respect to “*the ownership of minor forest produce*”. The Panchayats and the Gram Sabhas of indigenous peoples however could not take control over “*the ownership of minor forest produce*” under the PESA Act as the implementation of the PESA Act required adoption of the PESA Rules by the State Assemblies and the State Governments simply had not framed the PESA Rules to implement the

¹. Statement of claims and distribution of title deeds under the Forest Rights Act, 2006 as on 31.08.2018, Ministry of Tribal Affairs, <https://tribal.gov.in/FRA/data/MPRAug2018.pdf>

². http://www.frienviis.nic.in/Database/JFM-Committees-and-Forest_Area_2243.aspx

PESA.³ Andhra Pradesh⁴ was the first state to publish the PESA Rules in 2011, 15 years after the promulgation of PESA.

In the meanwhile, in 2006, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 (herein after known as the FRA) was enacted and it recognized that *“the Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.”* As the FRA was a federal legislation and the Rules were framed immediately, the implementation of the FRA became in earnest.

The JFM Committees without legal basis had become irrelevant and the JFM were brought under the jurisdiction of the Gram Sabhas under the FRA Rules of 2012.

But, the Ministry of Environment, Forest and Climate Change has been taking measures to undermine the FRA and the rights of the indigenous peoples.

It is submitted that the proposed Draft National Forest Policy 2018 authorizes “encroachment on the traditional lands of indigenous peoples or forced removal of these peoples from their lands, in particular for the purpose of exploitation of natural resources” as provided in the Guidelines of the Early Warning Procedures of the CERD Committee in the following ways:

First, the Draft National Forest Policy 2018 seeks to seize the powers of the Gram Sabhas under the PESA Act and the Forest Rights Act i.e. control over the community forest resources and JFM by launching a *“National Community Forest Management (CFM) Mission”*. To achieve the same, it provides that *“Appropriate laws, rules and regulations, as per*

³. The 10 States having tribal dominated areas requiring protection and recognition under the Fifth Schedule to the Constitution of India are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana.

⁴. Rules –Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011 , Dated 24.03.2011, available at http://pesadarpan.gov.in/documents/30080/0/AP+PESA+Rules+_2011.pdf/5a03b369-981f-4cf3-b9e3-1b63b7366dfd4

requirement, will be put in place and existing ones suitably amended for effective implementation of this policy. Institutionalized legal support will form an integral part of the forest administration and management". This usurping of powers of the Gram Sabhas is being proposed despite the non-obstante clause provided under Section 4(1) of the Forest Rights Act, 2006 which provides that *"Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in – (a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3."* Once the Draft National Forest Policy is adopted, the Forest Department officials will abuse the powers to bring the forest and forest dwellers at present under the control of the Gram Sabhas within the ambit of the National Community Forest Management (CFM) Mission.

Second, the Draft National Forest Policy 2018 also provides for creation of institutional framework i.e. *"A National Board of Forestry headed by the central minister in-charge of forests and State Boards of Forestry headed by state minister in-charge of forests"* to *"be established for ensuring inter-sectoral convergence, simplification of procedures, conflict resolution and periodic review"*. The Draft National Forest Policy of the MoEF already decided to exclude the Ministry of Tribal Affairs' mandated to ensure implementation of the FRA, from the proposed institutional framework.

Third, the Draft National Forest Policy 2018 further overrules the FRA by declaring that *"as far as community forest resources management under Forest Rights Act is concerned, the new policy will address the same under participatory forest management and the same will be addressed through the proposed community forest management mission"*. Only in India, the policy can prevail over the law!

This must be read with Section F(i) of the Draft National Forest Policy which unequivocally states that *"legal and administrative measures for protection of biodiversity against bio-piracy will be taken, in sync with National Biodiversity Act"*. It is clear that the Draft National Forest Policy complies to respect the National Bio-diversity Act but with respect to "community forest resources management" under Forest Rights Act, the new draft policy proposes to acquire the community forest resources through "the proposed community forest management mission".

Finally, the Draft National Forest Policy 2018 seeks to promote "industrial plantations for meeting the demand of raw material". It states that *"4.4 There is a need to stimulate growth in the forest-based industry sector. This*

*sector being labor intensive can help in increasing green jobs. Forest corporations and industrial units need to step up growing of industrial plantations for meeting the demand of raw material. Forest based industries have already established captive plantations in partnership with the farmers. This partnership needs to be further expanded to ensure an assured supply of raw material to the industries with mutually beneficial arrangements. Further a forum for interaction and collaboration would be set up for Forest based industries with forestry institutions and concerned stakeholders so that a demand for trained professionals is created in the sector”.*⁵ It further states that “4.1.2(a)(iv): *“Suitable location specific Public Private Partnership models will be developed involving Forest Departments, Forest development Corporations, Communities, Public limited companies etc for achieving the target of increased forest & tree cover in the country”.*⁶

This is in complete contrast to the existing National Forest Policy 1988, which unequivocally states that *“Natural forests serve as a gene pool resource and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for undertaking plantation and for any other activities.”*⁷

There is apprehension that the commercialization of the forest is being proposed “in particular for the purpose of exploitation of natural resources” among others to utilize about US\$ 15 billion deposited with the Compensatory Afforestation Fund Management and Planning Authority (CAMPA) of India, exclusively for undertaking afforestation programmes which is explained below.

Concerned about the reduction of forest cover because of diversion of forest for non-forest purposes, the Supreme Court in its order in *T.N. Godavarman Thirumulpad vs. Union of India and Others [Writ Petition (Civil) No. 202 of 1995]*, dated the 30th October 2002 directed the Government of India to create a Compensatory Afforestation Fund in which all the funds received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of the diverted forest land or catchment area treatment plan shall be deposited and the funds cannot be diverted. Under this programme, if an industrial activity such as mining is undertaken and certain area of forest is diverted/destroyed for the said industrial activity (which is a non-forest activity), the agency/authorities undertaking the

⁵. Para 4.4, Draft National Forest Policy, 2018

⁶. Para 4.1.2(a)(iv), Draft National Forest Policy, 2018

⁷. Para 4.9, National Forest Policy, 1988, available at <http://envfor.nic.in/legis/forest/forest1.html>

industrial activity shall deposit assessed funds to undertake afforestation activities equivalent to the forest diverted/destroyed. The afforestation activities are undertaken to protect the environment and ensure environmental balance. The Forest Department of the Government of India is responsible for implementing the afforestation programmes.

As the funds for compensatory cannot be diverted and can solely be used for afforestation, it has been growing. Initially, the MoEF notified adhoc Compensatory Afforestation Fund Management and Planning Authority (CAMPA) in April 2004 for the management of the Compensatory Afforestation Fund. It continued to function on adhoc basis until the enactment of the Compensatory Afforestation Fund Act, 2016 (No. 38 of 2016).

The Comptroller and Auditor General of India CAG⁸ after audit of the period from 2006 to 2012 found that the Compensatory Afforestation Funds with Ad-hoc CAMPA grew from Rs 12,000 million to Rs 2,360,767 millions. It is pertinent to mention that as on 31.03.2018, about Rs. 14,418 crore⁹ was released to different State Governments/ Union Territories from the CAMPA funds and the same has not been fully utilized either. In the meanwhile as of 31.03.2018, the CAMPA funds available with various State /UT for afforestation programmes stood at Rs. 66,298 crore including interest.¹⁰ As per the media reports, by April 2018, CAMPA funds increased to Rs 900,000 million¹¹ i.e. over US\$ 15 billion. The funds will further increase as the CAMPA Act has been enacted and diversion of forest lands are taking place on regular basis requiring deposit of more funds by the user agencies for compensatory afforestation.

It is pertinent to mention that compensatory afforestation activities cannot be undertaken in forest areas. It can be undertaken mainly in the “degraded forests” currently under mainly JFMC or communities under the Forest Rights Act. It is for this purpose that the commercialization of the forest and bringing entire forests including those over which rights under the Forest Rights Act had been recognized are being brought under the National Community Forest Management (CFM) Mission as envisaged in the Draft Forest Policy.

⁸. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁹. 1 crore is equal to 10 million

¹⁰. Lok Sabha, Unstarred Question No.3938, answered on 10.08.2018

¹¹. Supreme Court pulls up Centre for not using Rs 90,000 crore meant for environment, Down To Earth, 11 April 2018, <https://www.downtoearth.org.in/news/environment/supreme-court-pulls-up-centre-for-not-using-rs-90-000-crore-meant-for-environment-60149>

Further, the Forest Departments also do not have the capacity to undertake large-scale afforestation programmes and non-utilisation of Rs 90,000 million (about US\$ 15 billion) explains the absolute lack of capacity. This had been recognized by the Government of India itself. In August 2015, the Ministry of Environment, Forest and Climate Change sent the guidelines to the states for “participation of private sector in afforestation of degraded forests” as *“ongoing national afforestation programmes have not been able to make the desired impact in improving productivity and quality of forest cover due to a lack of sufficient investment, capacity, technological upgradation and adequate skilled manpower.”*¹²

The CAMPA funds shall continue to grow as India diverts/destroys more forest for industrial activities and more funds are deposited for afforestation but the Forest Department admittedly is incapable and unable to undertake afforestation programmes and as the CAMPA funds are non-divertible for other purposes except afforestation under the direction of the Supreme Courts, interests on the deposited amounts also grows. The afforestation programmes remains a potential area of corruption by the officials of the government of India, which can be facilitated by participation of industries in the afforestation programmes.

If the Draft National Forest Policy 2018 is adopted and implemented, it shall sound the death knell for the Scheduled Tribes and other traditional forest dwellers of India.

Asian Centre for Human Rights therefore recommends to the Government of India to:

- abandon the Draft National Forest Policy of 2018
- not adopt any policy that undermines the PESA Act or the Forest Rights Act including rights and management over the minor forest produce; and
- involve indigenous peoples in the Compensatory Afforestation Programme.

¹². Govt to allow pvt sector to manage 40% of forests, The Hindustan Times, 13 September 2015, <https://www.hindustantimes.com/india/govt-to-allow-pvt-sector-to-manage-40-of-forests/story-yOiG4TO4kA2kvykxXNTEBK.html>

ड्राफ्ट राष्ट्रीय वन नीति 2018:

एक षड्यंत्र अनुसूचित जनजातियों के हक को नकारने का कार्यकारी सारांश और सिफारिशें

भारत सरकार के मिनिस्ट्री आफ एनवायरनमेंट फारेस्ट एंड क्लाइमेट चैंज (एम्.ओ.ई. ऍफ) ने 14 मार्च 2018 को सार्वजनिक निजी संगठनों, विशेषज्ञों और सम्बंधित नागरिकों सहित हितधारकों के टिप्पणियों, सुझावों विचारों को आमंत्रित करते हुए ड्राफ्ट राष्ट्रीय वन नीति 2018 प्रकाशित किया है। यह उम्मीद की जाती है कि भारत सरकार जल्द ही इस ड्राफ्ट को अंतिम रूप देंगे।

अगस्त 2018 तक अनुमानित 10,941,652 एकर्स या 4,429,818 हेक्टेयर्स वन भूमि पर आदिवासी लोगों को वन अधिकार अधिनियम (FRA) के तहत सामुदायिक वन अधिकार का मालिकाना हक प्रदान किया गया है¹ और सन 1990 से लेकर 22,938,814 हेक्टेयर्स वन भूमि संयुक्त वन प्रबंधन के तहत आदिवासियों के नियंत्रण में हैं।² कुल मिलाकर उपरोक्त वन क्षेत्र भारत का एक तिहाई वन भूमि है। यह ड्राफ्ट राष्ट्रीय वन नीति आदिवासियों के वन अधिकार के खिलाफ वेदभावपूर्ण नयी कानूनी ढांचा अपनाने के लिए प्रदान करता है और इसके तहत आदिवासियों के वन अधिकार के मालिकाना हक को छीनना चाहता है।

यह बताना उचित है कि भारत के पर्यावरण और वन मंत्रालय ने 1990 में कार्यकारी आदेशों के अंतर्गत संयुक्त वन प्रबंधन समितियों की स्थापना की थी, इसलिए इन समितियों का कोई कानूनी आधार नहीं है।

पंचायती राज अधिनियम (अनुसूचित क्षेत्रों में विस्तार) 1996 धारा 4 (एम्-II) ने अनुसूचित क्षेत्रों में पंचायतों और ग्राम सभाओं (ग्राम परिषदों) की शक्तियों और अधिकारों को मान्यता दी। पंचायती राज अधिनियम, 1996 जिसे राष्ट्रपति द्वारा अधिसूचित किया गया, अनुसूचित जनजातियों पर लघु वनोपज का स्वामित्व प्रदान करता है। लेकिन राज्य सरकारों द्वारा पंचायती राज अधिनियम के नियमावली तैयार न करने के कारण अनुसूचित जनजातियों का लघु वनोपज पर नियंत्रण नहीं हो पाया³ क्योंकि

1. Statement of claims and distribution of title deeds under the Forest Rights Act, 2006 as on 31.08.2018, Ministry of Tribal Affairs, <https://tribal.gov.in/FRA/data/MPRAug2018.pdf>

2. http://www.frienvivis.nic.in/Database/JFM-Committees-and-Forest_Area_2243.aspx

3. The 10 States having tribal dominated areas requiring protection and recognition under the Fifth Schedule to the Constitution of India are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana.

पंचायती राज अधिनियम को अमल में लाने के लिए नियमावली अनिवार्य हैं। पंचायती राज अधिनियम, 1996 के प्रचार के 15 साल बाद आंध्रप्रदेश पहला राज्य था जिसने इस अधिनियम के नियमावली को लागू किया था।⁴

इसी बीच, 2006 में, अनुसूचित जनजाति और अन्य पारम्परिक वन निवासी (वन अधिकारों की मान्यता) अधिनियम (इसके बाद एफआरए के रूप में जाना जाता है) 2006 में अधिनियमित किया गया था और यह मान्यता दी कि ग्राम सभा को इस अधिनियम के तहत अपने अधिकार क्षेत्र की स्थानीय सीमा के भीतर अनुसूचित समुदाय और अन्य पारंपरिक वनवासियों को दिए जाने वाले व्यक्तिगत या सामुदायिक वन अधिकारों की प्रकृति और सीमा निर्धारित करने के लिए प्रक्रिया शुरू करने का अधिकार होगा। ग्राम सभा को दावों को प्राप्त करके, उन्हें समेकित और सत्यापित करने और एक नक्शा तैयार करके, प्रत्येक अनुशंसित दावे के क्षेत्र को चित्रित कर उस पर एक प्रस्ताव पारित करने का अधिकार होगा और उस प्रस्ताव को उप-विभागीय स्तर समिति को अग्रेसित करेगा।⁵ क्योंकि एफआरए एक संघीय कानून था और नियमों को तुरंत तैयार किया गया था, इसलिए एफआरए का कार्यान्वयन जल्दी हो गया।

बिना कानूनी आधार के जेएफएम समितियाँ अप्रसांगिक हो गयी थी और इन्हे 2012 के एफआरए नियमों के तहत ग्राम सभा के अधिकार क्षेत्र में लाया गया था।

लेकिन पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय एफआरए और आदिवासी लोगों के अधिकारों को कमजोर करने के उपाय कर रहा है।

यह प्रस्तुत किया जाता है कि प्रस्ताविक ड्राफ्ट राष्ट्रीय वन नीति 2018 आदिवासी लोगों के पारम्परिक भूमि पर अतिक्रमण या उन लोगों को अपनी भूमि से जबरन हटाने के लिए खासकर प्राकृतिक संसाधनों के शोषण के उद्देश्य से अधिकृत करता है⁶ जिसका वर्णन कमिटी ऑन द एलीमिनेशन ऑफ रेसियल डिस्क्रिमिनेशन (सीइआरडी) ने अपने पूर्व चेतावनी प्रक्रिया का दिशानिर्देशों में निम्न प्रकार से किया है:

पहले, ड्राफ्ट राष्ट्रीय वन नीति 2018 पंचायती राज अधिनियम और वन अधिकार अधिनियम के तहत ग्राम सभा को दिए गए शक्तियों को जब्त करता चाहती है अर्थात् राष्ट्रीय सामुदायिक वन प्रबंधन (सीएफएम) मिशन लांच करके सामुदायिक वन संसाधनों और जेएफएम पर नियंत्रण चाहती है। इसे हासिल करने के लिए, यह प्रदान करता है कि उपयुक्त कानून, नियम और विनियम, आवश्यकता के अनुसार लागू किये जाएंगे और मौजूदा कानूनों और नियमों को इस नीति के प्रभावी कार्यान्वयन हेतु उपयुक्त रूप

4. Rules – Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011, Dated 24.03.2011, available at http://pesadarpan.gov.in/documents/30080/0/AP+PESA+Rules+_2011.pdf/5a03b369-981f-4cf3-b9e3-1b63b7366df4

से संशोधन किया जाएगा। संस्थागत कानूनी सहायता वन प्रशासन और प्रबंधन का एक अभिन्न अंग बनेगा।” ग्राम सभाओं के शक्तियों को हड़पने का यह प्रस्ताव वन अधिकार अधिनियम 2006 धारा 4 (1) के बावजूद दिया जा रहा है। यह अधिनियम प्रदान करता है कि किसी भी अन्य कानून में कोई भी प्रावधान होने के बावजूद, इस अधिनियम के प्रावधानों के अधीन, केंद्र सरकार इसके अंतर्गत वन अधिकारों को मान्यता देती है और इन पर प्रदान करती है - (क) राज्यों या राज्यों के क्षेत्रों में वन निवास अनुसूचित जनजातियाँ, जहाँ उन्हें धारा 3 में उल्लेखित सभी वन अधिकारों के संबंध में अनुसूचित जनजाति के रूप में घोषित किया गया है और (ख) सभी पारम्परिक वन निवासी जिनका वन अधिकार धारा 3 के तहत वर्णित किया गया है। एक बार ड्राफ्ट राष्ट्रीय वन नीति को अपनाये जाने के बाद वन विभाग के अधिकारी अपने शक्तियों का द्रुपयोग करके वन और वन निवासी जो वर्तमान समय में ग्राम सभा के नियंत्रण में हैं उन्हें राष्ट्रीय सामुदायिक वन प्रबंधन (सीएफएम) मिशन के दायरे में लाएंगे।

दूसरा, ड्राफ्ट राष्ट्रीय वन नीति 2018 में संस्थागत ढांचे के निर्माण का भी प्रावधान है, केंद्रीय वन मंत्री और राज्य वन मंत्री के अगुवाई में एक राष्ट्रीय वानिकी बोर्ड जिसकी एक कार्य अंतर-क्षेत्रीय अभिसरण, प्रक्रियाओं की सरलीकरण, संघर्ष समाधान और आवधिक समीक्षा सुनिश्चित करने के लिए स्थापित किया जाएगा। अतः ड्राफ्ट राष्ट्रीय वन नीति ने पहले से ही प्रस्तावित संस्थागत ढांचे से जनजाति मामलों के मंत्रालय को वन अधिकार अधिनियम के कार्यान्वयन से बहार रखने का फैसला लिया है।

तीसरा, ड्राफ्ट राष्ट्रीय वन नीति 2018 वन अधिकार अधिनियम 2006 को इस प्रकार रद्द करती है, नई नीति इसे सहभागी वन प्रबंधन के तहत सम्बोधित करेगी और यह सामुदायिक वन प्रबंधन मिशन के जरिये सम्बोधित किया जाएगा। केवल भारत में ही नीति कानून पर प्रबल हो सकता है।

इसे ड्राफ्ट राष्ट्रीय वन नीति के धारा एफ (आई) के साथ पढ़ा जाना चाहिए, जिसमें स्पष्ट रूप से कहा गया है कि जैव-चोरी के खिलाफ जैव विविधता के संगरक्षण हेतु कानूनी और प्रशासनिक कदम जैव-विविधता अधिनियम से समन्वय करते हुए लिए जाएंगे।” यह स्पष्ट है कि ड्राफ्ट राष्ट्रीय वन नीति राष्ट्रीय जैव-विविधता अधिनियम का सम्मान करती है, लेकिन वन अधिकार अधिनियम के तहत सामुदायिक वन संसाधन प्रबंधन के सम्बन्ध में नई ड्राफ्ट नीति प्रस्तावित सामुदायिक वन प्रबंधन मिशन के जरिये सामुदायिक वन संसाधन को हड़पना चाहती है।

आखिरकार, ड्राफ्ट राष्ट्रीय वन नीति कच्चे माल की मांग को पूरा करने के लिए औद्योगिक वृक्षारोपण को बढ़ावा देता है। यह कहता है कि वन आधारित उद्योग क्षेत्र

में विकास को प्रोत्साहित करने की आवश्यकता है। इस क्षेत्र में श्रम गहन होने से हरित रोजगार बढ़ाने में मदद मिल सकती है। कच्चे माल की मांग को पूरा करने के लिए वन निगमों और औद्योगिक इकाइयों को औद्योगिक बागानों के विकास की ओर कदम बढ़ाने की जरूरत है। वन आधारित उद्योगों ने पहले ही किसानों के साथ भागीदारी में कैप्टिव वृक्षारोपण की स्थापना की है। उद्योगों को पारस्परिक रूप से लाभकारी व्यवस्था के साथ कच्चे माल की आपूर्ति सुनिश्चित करने के लिए इस साझेदारी को और विस्तारित करने की आवश्यकता है। इसके अलावा, वन वृक्ष संस्थानों और संबंधित हितधारकों के साथ वन आधारित उद्योगों के लिए बातचीत और सहयोग के लिए एक मंच स्थापित किया जाएगा ताकि क्षेत्र में प्रशिक्षित पेशेवरों की मांग पैदा हो।⁵ इसमें आगे कहा गया है कि **4.1.2 (a) (iv)** : देश में जंगल और पेड़ का आवरण को बढ़ाने के लक्ष्य को प्राप्त करने के लिए वन विभागों, वन विकास निगमों, समुदायों, सार्वजनिक सिमित कंपनियों आदि से उपयुक्त स्थान विशिष्ट सार्वजनिक निजी भागीदारी मॉडल को विकसित किया जाएगा।⁶

प्रस्तावित ड्राफ्ट वन नीति 2018 मौजूदा राष्ट्रीय वन नीति, 1988 के पूर्ण विपरीत है, जिसमें कहा गया है कि प्राकृतिक वन एक जीन पूल संसाधन के रूप में कार्य करते हैं और पारिस्थितिक संतुलन बनाए रखने में मदद करते हैं। इसलिए, उद्योगों को ऐसे वन वृक्षारोपण और अन्य गतिविधियों के लिए उपलब्ध नहीं कराए जाएंगे।⁷

इस बात की आशंका है कि जंगल का व्यवसायीकरण विशेष रूप से प्राकृतिक संसाधनों के दोहन के उद्देश्य से प्रस्तावित किया जा रहा है, दूसरों के बीच, लगभग 15 बिलियन अमेरिकी डालर का उपयोग करने हेतु भारत क्षतिपूर्क वनीकरण कोष प्रबंधन और योजना प्राधिकरण (**CAMPA**) के साथ, विशेष रूप से वनीकरण कार्यक्रम शुरू करने के लिए, जिसे नीचे व्याख्या किया गया है:-

गैर-वन उद्देश्यों के लिए जंगल का अन्य उपयोग करने के कारण वन आवरण में कमी के बारे में चिंतित, सर्वोच्च न्यायालय ने टी.एन. गोडवर्मन थिरुमपाद बनाम भारत संघ और अन्य रिट याचिका (सिविल) सं: 1995 का 2002, दिनांक 30 अक्टूबर 2002 में अपने आदेश में भारत सरकार को प्रतिपूर्क वनीकरण कोष बनाने के लिए निर्देशित किया जिसमें सभी धनराशि उपयोगकर्ता एजेंसियों से प्रतिपूर्क वनीकरण, अतिरिक्त प्रतिपूर्क वनीकरण, दंडात्मक प्रतिपूर्क वनीकरण, तिरछी वन भूमि के शुद्ध वर्तमान मूल्य या कैचमेंट एरिया ट्रीटमेंट प्लान के सन्दर्भ में जमा करने को कहा और यह

5. Para 4.4, Draft National Forest Policy, 2018

6. Para 4.1.2(a) (iv), Draft National Forest Policy, 2018

7. Para 4.9, National Forest Policy, 1988, available at <http://envfor.nic.in/legis/forest/forest1.html>

निर्देशित किया गया कि जमा निधि वनीकरण के अलावा अन्य किसी कार्य के लिए उपयोग नहीं किया जा सकता हैं। इस कार्यक्रम के तहत, यदि खनून जैसी कोई औद्योगिक गतिविधि की जाती है और जंगल का कुछ क्षेत्र उक्त औद्योगिक गतिविधि (जो एक गैर वन गतिविधि है) के लिए डायवर्ट/डैमेज किया जाता है, तो औद्योगिक गतिविधि करने वाली एजेंसी/प्राधिकरण वनीकरण कार्य करने के लिए निर्धारित धनराशि जमा करेंगे। पर्यावरण की रक्षा करने और पारिस्थितिक संतुलन सुनिश्चित करने के लिए वनीकरण गतिविधियाँ की जाती हैं। वनीकरण कार्यक्रमों को लागू करने के लिए भारत सरकार का वन विभाग जिम्मेदार है।

क्योंकि प्रतिपूरक निधि को वनीकरण के अलावा अन्य किसी कार्य के लिए उपयोग नहीं किया जा सकता हैं और पूरी तरह से वनीकरण के लिए इस्तेमाल किया जा सकता है, यह निधि बढ़ रहा है। प्रारंभ में, एमओईएफ ने प्रतिपूरक वनीकरण कोष प्रबंधन के लिए अप्रैल 2004 में एडहॉक कॉम्पेन्सेटरी एफोरेस्टेशन फंड मैनेजमेंट एंड प्लानिंग अथॉरिटी (**CAMPA**) को अधिसूचित किया। इसने तदर्थ आधार पर काम करना जारी रखा जब तक कि प्रतिपूरक वनीकरण कोष अधिनियम, 2016 का अधिनियमित नहीं किया गया।

भारत के नियंत्रक और महालेखा परीक्षक (**CAG**) ने 2006 से 2012 की अवधि के ऑडिट के बाद पाया कि एड-हॉक **CAMPA** के साथ प्रतिपूरक वनीकरण कोष 12,000 मिलियन से बढ़कर 2,360,767 मिलियन रुपये हो गया।⁸ यह उल्लेख करना उचित है कि 31.03.2018 को लगभग 14,418 करोड़ रुपये अलग-अलग राज्य सरकारों/केंद्र शासित प्रदेशों को **CAMPA** फंड से जारी किए गए थे और इनका पूरी तरह से उपयोग नहीं किया गया है। इसी बीच, 31.03.2018 तक, वनीकरण कार्यक्रमों के लिए विभिन्न राज्य/केंद्र शासित प्रदेशों के साथ **CAMPA** फंड ब्याज सहित — 66,298 करोड़ हो गया।¹⁰ मीडिया रिपोर्ट्स के अनुसार, अप्रैल 2018 तक, **CAMPA** फंड बढ़कर 900,000 मिलियन रुपये¹¹ यानी **US \$ 15** बिलियन से अधिक हो गया। धनराशि में और वृद्धि होगी क्योंकि **CAMPA** अधिनियम अधिनियमित किया गया है और नियमित आधार पर वन भूमि को औद्योगिक कार्यों में लाये जाने के कारण प्रतिपूरक वनीकरण के लिए उपयोगकर्ता एजेंसियों द्वारा वनीकरण कार्यों के लिए अधिक धनराशि जमा करना पड़ेगा।

8. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

9.1 crore is equal to 10 million

10. Lok Sabha, Unstarred Question No.3938, answered on 10.08.2018

11. Supreme Court pulls up Centre for not using Rs 90,000 crore meant for environment, Down To Earth, 11 April 2018, <https://www.downtoearth.org.in/news/environment/supreme-court-pulls-up-centre-for-not-using-rs-90-000-crore-meant-for-environment-60149>

यह उल्लेख करना उचित है कि वन क्षेत्रों में प्रतिपूरक वनीकरण गतिविधियां नहीं की जा सकती हैं। प्रतिपूरक वनीकरण गतिविधियां मुख्य रूप से पतित वन में किया जा सकता है जो वर्तमान में वन अधिकार अधिनियम के तहत **JFMC** या समुदायों के नियंत्रण में हैं। ड्राफ्ट वन नीति वनों के व्यवसायीकरण के उद्देश्य से सम्पूर्ण जंगले, जिसमें वन अधिकार अधिनियम के तहत मान्यता दी हुई वन भूमि भी शामिल हैं, को राष्ट्रीय सामुदायिक वन प्रबंधन (सीएफएम) मिशन के तहत लाया जा रहा है।

इसके अलावा, वन विभाग के पास बड़े पैमाने पर वनीकरण कार्यक्रम करने की क्षमता भी नहीं है और 90,000 करोड़ रूपयों (लगभग 15 बिलियन अमेरिकी डालर) का उपयोग न कर पाना वन विभागों के क्षमता की पूर्ण कमी को व्याख्या करता है। इस कमी के बारे में खुद भारत सरकार को ज्ञात हैं। अगस्त 2015 में, पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय ने राज्यों को "पतित जंगलों के वनीकरण में निजी क्षेत्र की भागीदारी" के लिए दिशा-निर्देश भेजे, क्योंकि "चल रहे राष्ट्रीय वनीकरण कार्यक्रम में पर्याप्त निवेश, क्षमता, तकनीकी उन्नयन और पर्याप्त कुशल जनशक्ति की कमी के कारण उत्पादकता और वन कवर की गुणवत्ता में सुधार लाने में इच्छित प्रभाव नहीं डाल पाए हैं।"¹²

CAMPA निधि बढ़ते रहेंगे क्योंकि देश में औद्योगिक गतिविधियों के लिए अधिक वनभूमि परिवर्तित किये जाएंगे और वनीकरण के लिए और **CAMPA** निधि में अधिक धनराशि जमा हो जाएगी, लेकिन वन विभाग वस्तुतः अक्षम हैं और वनीकरण कार्यक्रमों को करने में असमर्थ है तथा सर्वोच्च न्यायालय के निर्देशानुसार **CAMPA** निधि अन्य उद्देश्यों के लिए गैर-परिवर्तनीय हैं, साथ ही जमा धनराशि पर व्याज भी बढ़ता जाएगा। वनीकरण कार्यक्रम भारत सरकार के अधिकारियों द्वारा भ्रष्टाचार का एक संभावित क्षेत्र बना हुआ है, जिसे वनीकरण कार्यक्रमों में उद्योगों की भागीदारी से सुगम बनाया जा सकता है।

यदि ड्राफ्ट राष्ट्रीय वन नीति 2018 को अपनाया और कार्यान्वित किया जाता है, तो यह अनुसूचित जनजातियों और भारत के अन्य पारंपरिक वनवासियों के लिए मौत की घंटी बजायेगी। इसलिए, एसियान सेंटर फरर ह्यूमन राइट्स भारत सरकार से सिफारिश करता है कि:

- 2018 की ड्राफ्ट राष्ट्रीय वन नीति को रद्द किया जाए
- ऐसे कोई भी नीति न अपनाये जो पंचायती राज अधिनियम या वन अधिकार अधिनियम जिसमें लघु वनोपज पर अधिकार और प्रबंधन शामिल है, को कमजोर करें और
- प्रतिपूरक वनीकरण कार्यक्रम में आदिवासी लोगों को शामिल करें

12. Govt to allow pvt sector to manage 40% of forests, The Hindustan Times, 13 September 2015, <https://www.hindustantimes.com/india/govt-to-allow-pvt-sector-to-manage-40-of-forests/storyOig4TO4kA2kvykxXNTEBK.html>

2. Background

The indigenous peoples, commonly known as the Scheduled Tribes in India, have been inhabiting the forest areas from time immemorial and their symbiotic relationship has been recognized in national and international human rights standards.

i. Forest minus peoples

In 1927, the colonial British enacted the Forest Act and took control over the forests. Independent India continued with the same policy until the enactment of the Forest Conservation Act of 1980 on 24 October 1980 to make dwelling in forest area a criminal offence under the Act. Hundreds of thousands of the Scheduled Tribes who had been living in the forest areas from time immemorial were declared as encroachers on the midnight of 24 October 1980. The National Commission on Scheduled Castes and Scheduled Tribes reported that in Madhya Pradesh alone, 1.48 lakh persons, mainly tribals, occupying 1.81 lakh hectares of lands in forest areas suddenly became encroachers from 25 October 1980, and thus liable for eviction.¹³

The Forest Conservation Act of 1980 nonetheless provided the mechanisms to regularise tribal villages in the forest areas under certain strict guidelines. However, the State governments and Central government sat over the regularisation processes.

In 1988, the Government of India launched the National Forest Policy¹⁴ and recognised *‘the symbiotic relationship between the tribal people and forests’* and further asserted that *“a primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest”*.

ii. Joint Forest Management

As part of the National Forest Policy, on 1 June 1990, the Ministry of Environment and Forests (MoEF) issued guidelines for initiating Joint

¹³. Forest Encroachments: Guidelines and Implications of Recent Orders, People’s Democracy, Weekly Organ of the Communist Party of India (Marxist), Vol. XXVII, No. 01, January 05, 2003

¹⁴. National Forest Policy of 1988 is available at <http://envfor.nic.in/legis/forest/forest1.html>

Forest Management (JFM) in “degraded forest” areas.¹⁵ Under the JFM, the villagers form Joint Forest Management Committee (JFMC) which signs Memorandum of Understanding (MoU) with the State’s forest department for safeguarding of forest resources through protection and management with the participation of the local communities. However, the JFMCs were established through executive orders and did not have legal basis.

Nonetheless, as of 2015, a total of 118,213 JFMCs had been set up across the country which are involved in the joint management of 22,938,814 ha of forest area¹⁶ which is about a third of the country’s forested landscape.

¹⁵ Ministry of Environment and Forests, Joint Forest Management: A Handbook, <https://ifs.nic.in/Dynamic/pdf/JFM%20handbook.pdf>

¹⁶ http://www.frienviis.nic.in/Database/JFM-Committees-and-Forest_Area_2243.aspx

3. Rights of the Indigenous Peoples over forest resources recognised under law

The government of India gradually enacted laws to codify the rights of the Scheduled Tribes over forest management.

i. Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA)

In 1996, the Government of India enacted the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) to extend local governance powers to Gram Sabhas in Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution. Under Section 4(m)(ii) of the PESA, the Panchayats and the Gram Sabhas in the Scheduled Areas were endowed with powers and authority as may be necessary to enable them to function as institutions of self-government specifically with “*the ownership of minor forest produce*”.

The Panchayats and the Gram Sabhas however could not take control over “*the ownership of minor forest produce*” simply because the State governments had not framed the PESA Rules to implement the Act.¹⁷ Andhra Pradesh¹⁸ was the first state to publish the rules in 2011, 15 years after the promulgation of PESA followed by Himachal Pradesh¹⁹ and Rajasthan²⁰ during the same year. Gujarat²¹ published Gujarat Provisions of the Panchayats (Extension to the Scheduled Areas) Rules, dated 17 January, 2018 while Maharashtra²² published the PESA Rules in 2018. Telangana has since adopted the Andhra Pradesh Panchayats

¹⁷. The 10 States having tribal dominated areas requiring protection and recognition under the Fifth Schedule to the Constitution of India are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana.

¹⁸. Rules – Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011 , Dated 24.03.2011, available at http://pesadarpan.gov.in/documents/30080/0/AP+PESA+Rules+_2011.pdf/5a03b369-981f-4cf3-b9e3-1b63b7366df4

¹⁹. <http://pesadarpan.gov.in/documents/30080/0/HP+PESA+Rules+2011.pdf/13d9d7d2-a8f2-479f-a101-ca353c928181>, dated 26.3.2011

²⁰. <http://pesadarpan.gov.in/documents/30080/0/Rajasthan+PESARules2011.pdf/344f7f87-fe5d-4253-bbfd-7973215b8084>, dated 1.11.2011

²¹. <http://pesadarpan.gov.in/documents/30080/0/Gujarat+PESA+Rule+2017.pdf/b03a22df-cdc7-4216-a6f8-c7dd09d902ad>, dated 17 January 2017.

²². <http://pesadarpan.gov.in/documents/30080/0/Maharashtra+PESA+Rules+2014.pdf/aeac197c-5c6c-435a-b582-569c7c79af93>

Extension to Scheduled Areas (PESA) Rules, 2011.²³ Jharkhand, Chhattisgarh, Madhya Pradesh and Odisha have not framed the PESA Rules. Therefore, the conflict between the Forest Department and the Panchayats/Gram Sabhas for control over minor forest produce had not intensified as the Forest Department had full control over the minor forest produce. Nonetheless, December 2002, the MoEF issued guidelines for setting up conflict resolution mechanism with Panchayat Raj Institutions to ensure their support in forest management.²⁴

ii. Forest Rights Act, 2006

The conflict between Gram Sabhas and the Forest Department grew after the government of India enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as the Forest Rights Act of 2006) to regularize the tribal villages in the forest areas prohibited by the Supreme Court. Section 6(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as the Forest Rights Act of 2006) provided that *“the Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.”*

Section 5 of the Forest Rights Act of 2006 also empowered the Gram Sabha inter alia to *“(a) protect the wild life, forest and biodiversity; (b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected; (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage; and (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.”*

²³. http://pesadarpan.gov.in/documents/30080/0/AP+PESA+Rules+_2011.pdf/5a03b369-981f-4cf3-b9e3-1b63b7366df4

²⁴. http://www.frienviis.nic.in/Database/Joint-Forest-Management_1949.aspx

4. Draft National Forest Policy 2018 – An instrument to usurp the powers of the Gram Sabhas of the Scheduled Tribes and mis-use the CAMPA funds?

The Forest Department exercised exclusive control over the forest since 1927 and it has been the primary oppressor of the Scheduled Tribes. Its Joint Forest Management (JFM) programme initiated since 1990 is not based on any law but established on executive orders. Following the enactment of the Forest Rights Act, the power to recognise rights including over “community rights” has been bestowed upon the Gram Sabha under Section 6(1) of the FRA.

Community rights are defined as “the rights listed in clauses (b), (c), (d), (e), (h), (i), (j), (k) and (l) of sub-section (1) of Section 3” which are elaborated below:

“Section 3(1)

For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-

- (a)*
- (b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;*
- (c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;*
- (d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;*
- (e) rights including community tenures of habitat and habitation for primitive tribal groups and preagricultural communities;*
- (h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;*

- (i) *rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;*
- (j) *rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribal under any traditional or customary law of the concerned tribes of any State;*
- (k) *right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;*
- (l) *any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;”*

The National Committee on Forest Rights Act, a Joint Committee of the Ministry of Environment and Forests and the Ministry of Tribal Affairs in its report submitted to the Government of India in December 2010 stated that there was a widespread assumption amongst officials (especially forest department) that Community Forest Rights need not be applied for under the Forest Rights Act, since people were already benefiting from existing arrangements such as Joint Forest Management (JFM) committees. In some cases, Community Forest Rights claims were either not accepted because “land is under JFM” or only land under JFM was being permitted for Community Forest Rights claims.²⁵ The Committee made broad recommendations with respect to community based forest governance and the recommendations were reflected in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2012 reaffirming the powers of the Gram Sabha over the community forest.

Rule 4 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2012 defines the functions of the Gram Sabha. The functions of the Gram Sabha under Rule 4(e) is to “(e) *Constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of Section 5 of the*

²⁵. Report of National Committee on Forest Rights Act (A Joint Committee of the Ministry of Environment and Forests and the Ministry of Tribal Affairs, Government of India), December 2010, P. 16 available at http://www.indiaenvironmentportal.org.in/files/file/Final%20Report_MoEF_FRA%20Committee%20report_Dec%202010.pdf

Act.” Under Rule 4(f), the functions of the Gram Sabha is to “monitor and control the committee constituted under clause (e) which shall prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling Scheduled Tribes and other Traditional Forest Dwellers and integrate such conservation and management plan with the micro plans or working plans or management plans of the forest department with such modifications as may be considered necessary by the committee”.

As the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2012 entrusted the responsibility to the Gram Sabhas with respect to community forest rights, it is pertinent to mention that as per the Ministry of Tribal Affairs, a total of 4,210,378 claims (4,064,741 individual and 145,637 community claims) were received from across the country under the FRA up to 31 August 2018. Out of these, 1,879,372 titles (1,808,819 individual and 70,553 community) i.e. 44.6% were accepted while 1,940,492 claims or 46.1% were rejected. The extent of forest land for which titles have been distributed is 15,523,868 acres i.e. 4,582,216 acres for individual claims and 10,941,652 acres as community forests²⁶ which the Forest Department have been seeking to include under the JFM.

As stated earlier, though the PESA of the 1996 recognised the powers of the Panchayats and the Gram Sabhas over the “minor forest produce”, the control over the same had not intensified because of the non-implementation of the PESA by the State. The implementation of the FRA monitored by the Ministry of Tribal Affairs brought the conflict between the Forest Department in one hand and the Panchayats and Gram Sabhas on the other came to the fore.

The Draft National Forest Policy 2018 is nothing but an attempt by the Forest Department to establish its authority especially over the Community Forest Resources under the FRA and the forests under the JFMCs.

4.1 An instrument to take away the powers of the Gram Sabhas and the Ministry of Tribal Affairs on minor forest produce

The Draft National Forest Policy 2018 seeks to take away the powers of the Gram Sabhas run by the Scheduled Tribes in the following ways:

²⁶. Statement of claims and distribution of title deeds under the Forest Rights Act, 2006 as on 31.08.2018, Ministry of Tribal Affairs, <https://tribal.gov.in/FRA/data/MPRAug2018.pdf>

i. National Community Forest Management Mission – a means to usurp the powers of the Gram Sabhas and the Ministry of Tribal Affairs

At the heart of the conflict is the control over the “community forest resources” which under Section of 2(a) of the FRA defined as “customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access”.

As the Joint Forest Management is not based on any law, there is little doubt that forest under the JFM falls under the jurisdiction of the Gram Sabhas under the FRA. This shall imply that the Gram Sabhas legally speaking at present shall have control over 10,941,652 acres or 4,429,818 hectares of “community forest” for which titles have been issued under the FRA as of August 2018²⁷ as well as 22,938,814 ha of forest area²⁸ which had already been covered under the JFM since 1990. It means that over one third of the total forest cover in India i.e. community forest and the JFM are under effective control of the Gram Sabhas.

As the JFM has no legal basis, the Draft National Forest Policy 2018 actually does not use the term “Joint Forest Management” but refers to “National Community Forest Management (CFM) Mission” to take control over the community forest and the JFM. Under strategy “4.1.1(h) relating to “Sustainable Management of Forests”, the Draft National Forest Policy 2018 makes it obvious that it is seeking to usurp the powers of the Gram Sabhas over community forest rights in the name of ensuring synergy between Gram Sabha and the JFMC. It states

“(b) Strengthen participatory forest management

India has rich and varied experience in participatory forest management. There is a need to further strengthen this participatory approach, for which a National Community Forest Management (CFM) Mission will be launched. This mission will have a legal basis and an enabling operational framework. The national, state and local level development programmes shall

²⁷. Statement of claims and distribution of title deeds under the Forest Rights Act, 2006 as on 31.08.2018, Ministry of Tribal Affairs, <https://tribal.gov.in/FRA/data/MPRAug2018.pdf>

²⁸. http://www.frienvivis.nic.in/Database/JFM-Committees-and-Forest_Area_2243.aspx

*be converged in these villages. All efforts to ensure synergy between Gram Sabha & JFMC will be taken for ensuring successful community participation in forest management”.*²⁹

As the Forest Department has no legal control including on the JFMCs at present, the Draft National Forest Policy proposes to subsume the role of the Gram Sabhas through a legal basis, which means enacting a new law overriding the Forest Rights Act and a new operational framework by excluding the Ministry of Tribal Affairs. Under 4.8 Legal and institutional frameworks”, the Draft National Forest Policy provides the following:

“4.8 Legal and institutional frameworks

Appropriate laws, rules and regulations, as per requirement, will be put in place and existing ones suitably amended for effective implementation of this policy. Institutionalized legal support will form an integral part of the forest administration and management. A National Board of Forestry headed by the central minister in-charge of forests and State Boards of Forestry headed by state minister in-charge of forests will be established for ensuring inter-sectoral convergence, simplification of procedures, conflict resolution and periodic review.”

Para 4.8 of the Draft National Forest Policy makes it obvious that “appropriate laws, rules and regulations” including the Forest Rights Act, as per requirement, will be put in place and existing ones suitably amended for effective implementation of this policy.

Further, it provides an operational framework in the form of “*a National Board of Forestry headed by the central minister in-charge of forests and State Boards of Forestry headed by state minister in-charge of forests will be established for ensuring inter-sectoral convergence, simplification of procedures, conflict resolution and periodic review.*” This implies that the Ministry of Tribal Affairs which has been monitoring the implementation of the Forest Rights Act shall have no role.

The Draft National Forest Policy 2018 under “Para 4.11 Harmonization with other policies and laws” makes it clear that “As far as community forest resources management under Forest rights Act is concerned, the new policy will address the same under participatory forest management and the same will be addressed through the proposed community forest management mission”. This is nothing but an illegal attempt to usurp the powers of the Gram Sabhas.

²⁹. Para 4.1.1 (h) of the Draft National Forest Policy, 2018

ii. FRA not given the same status as the National Biodiversity Act

As the Draft National Forest Policy 2018 is a means to nullify the FRA, it does not give the FRA the same status as the National Biodiversity Act.

On “Biodiversity Conservation”, the Draft National Forest Policy 2018 under Section F(i) unequivocally states that “*legal and administrative measures for protection of biodiversity against bio-piracy will be taken, in sync with National Biodiversity Act*”. However, with respect to “community forest resources management” under Forest Rights Act, the new policy states that will address through “the proposed community forest management mission”.

This is despite the fact that the Forest Rights Act is a special law and includes non-obstante clause i.e. Section 4(1) of the Forest Rights Act, 2006 to prevail over all other Acts.

4.2 Privatization of natural forests for commercial purpose – an instrument to abuse the funds of the CAMPA

i. Prohibition of commercialization of “forest” under the existing laws and the National Forest Policy of 1988

The Forest (Conservation) Act of 1980³⁰ (amended in 1988) restricts the dereservation of forests or use of forest land for non-forest purpose.

Considering the dire consequences of commercialization of the natural forest, the National Forest Policy 1988 has banned private plantations in all types of natural forests, irrespective of their density. At para 4.9, the National Forest Policy of 1988 provided the following:

“4.9 Forest based Industries

The main considerations governing the establishment of forest-based industries and supply of raw material to them should be as follows:

- As far as possible, a forest-based industry should raise the raw material needed for meeting its own requirements, preferably by establishment of a direct relationship between the factory and the individuals who can grow the raw material by supporting the individuals with inputs including credit, constant technical advice and finally harvesting and transport services.

³⁰ „2. Restriction on the dereservation of forests or use of forest land for non-forest purpose. Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

(i) that any reserved forest (within the meaning of the expression “reserved forest” in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose;

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

Explanation - For the purpose of this section, “non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for-

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reforestation; but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.”

- *No forest-based enterprise, except that at the village or cottage level, should be permitted in the future unless it has been first cleared after a careful scrutiny with regard to assured availability of raw material. In any case, the fuel, fodder and timber requirements of the local population should not be sacrificed for this purpose.*
- *Forest based industries must not only provide employment to local people on priority but also involve them fully in raising trees and raw-material.*
- *Natural forests serve as a gene pool resource and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for undertaking plantation and for any other activities.*
- *Farmers, particularly small and marginal farmers would be encouraged to grow, on marginal/degraded lands available with them, wood species required for industries. These may also be grown along with fuel and fodder species on community lands not required for pasture purposes, and by Forest department/corporations on degraded forests, not earmarked for natural regeneration.*
- *The practice of supply of forest produce to industry at concessional prices should cease. Industry should be encouraged to use alternative raw materials. Import of wood and wood products should be liberalised.”*

The existing National Forest Policy of 1988 devotes an entire section on the diversion of forest lands for non-forest purposes. It has specifically banned mining, quarrying in forest land and diversion of forest land for non-forest purposes.³¹ At Para 4.4.1, the National Forest Policy of 1988 states,

“Forest land or land with tree cover should not be treated merely as a resource readily available to be utilised for various projects and programmes, but as a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for any non-forest purpose should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits. Construction of dams and reservoirs, mining and industrial development and expansion of agriculture should be consistent with the needs for conservation of trees and forests. Projects which involve such diversion should at least provide, in their investment budget, funds for regeneration/ compensatory afforestation”.

³¹. Section 4.4 of National Forest Policy, 1988, available at <http://envfor.nic.in/legis/forest/forest1.html>

Further, Para 4.4.2 of the existing National Forest Policy of 1988 says, *“Beneficiaries who are allowed mining and quarrying in forest land and in land covered by trees should be required to repair and re-vegetate the area in accordance with established forestry practices. No mining lease should be granted to any party, private or public, without a proper mine management plan appraised from the environmental angle and enforced by adequate machinery”*.

Under Section 3(2) of the FRA, 2006, notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government may divert forest land for some facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely (a) schools; (b) dispensary or hospital; (c) anganwadis; (d) fair price shops; (e) electric and telecommunication lines; (f) tanks and other minor water bodies; (g) drinking water supply and water pipelines; (h) water or rain water harvesting structures; (i) minor irrigation canals; (j) non-conventional source of energy; (k) skill up-gradation or vocational training centers; (l) roads; and (m) community centers. But “the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha”.³²

The Draft National Forest Policy 2018 acknowledges that *“As a result of the implementation of the 1988 policy prescriptions, there has been an increase in forest and tree cover and reduction in the diversion of forest land for other land uses despite compelling demands from the increasing population, industrialization and rapid economic growth”*.³³ However, the draft National Forest Policy of 2018 does not outrightly prohibit diversion of forest land for mining and industrial projects. At Para 2.7 it only mentions, *“2.7 Safeguard forest land by exercising strict restraint on diversion for non-forestry purposes, and strict oversight on compliance of the conditions.”* Clearly, this is not enough safeguards against diversion of forests for non-forest purposes.

ii. Promotion of “commercialization of forest” by the Draft National Forest Policy of 2018

The Draft National Forest Policy 2018 seeks to promote “industrial plantations for meeting the demand of raw material” by stating the following:

“4.4 There is a need to stimulate growth in the forest based industry sector. This sector being labour intensive can help in increasing green

³². Section 3(2) of the Forest Rights Act, 2006

³³. Section 1.4 of Draft National Forest Policy, 2018

*jobs. Forest corporations and industrial units need to step up growing of industrial plantations for meeting the demand of raw material. Forest based industries have already established captive plantations in partnership with the farmers. This partnership needs to be further expanded to ensure an assured supply of raw material to the industries with mutually beneficial arrangements. Further a forum for interaction and collaboration would be set up for Forest based industries with forestry institutions and concerned stakeholders so that a demand for trained professionals is created in the sector”.*³⁴

The Draft National Forest Policy 2018 also proposes “Public private participation models” for undertaking “Afforestation and reforestation activities” and in the management of trees outside forests. At Para 4.1.1 (d), the draft policy states, “*(d) Productivity of the forest plantations are poor in most of the States. This will be addressed by intensive scientific management of forest plantations of commercially important species like teak, sal, sisham, poplar, gmelina, eucalyptus, casuarina, bamboo etc. The lands available with the forest corporations which are degraded & underutilized will be managed to produce quality timber with scientific interventions. Public private participation models will be developed for undertaking Afforestation and reforestation activities in degraded forest areas and forest areas available with Forest Development Corporations and outside forests*”.³⁵ (emphasis added)

Further, at Para 4.1.2(a)(iv), the draft National Forest Policy with regard to management of trees outside forests provides that “*Suitable location specific Public Private Partnership models will be developed involving Forest Departments, Forest development Corporations, Communities, Public limited companies etc for achieving the target of increased forest & tree cover in the country*”.³⁶

As stated, this is in complete contrast to the existing National Forest Policy 1988, which unequivocally states that “*Natural forests serve as a gene pool resource and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for undertaking plantation and for any other activities.*”³⁷

³⁴. Para 4.4, Draft National Forest Policy, 2018

³⁵. Para 4.1.1 (d), Draft National Forest Policy, 2018

³⁶. Para 4.1.2(a)(iv), Draft National Forest Policy, 2018

³⁷. Para 4.9, National Forest Policy, 1988, available at <http://envfor.nic.in/legis/forest/forest1.html>

iii. Are over 15 billion-dollar CAMPA funds the *raison d'être* for promoting commercialization of forest in the Draft National Forest Policy 2018?

Commercialisation of natural forest is being promoted with the sole aim to use/ misuse/ abuse the funds raised for the compensatory afforestation programmes.

According to the State of Forest Report 2017, India has 708,273 sq km (or over 70 million hectares) forest cover, out of which 301,797 sq km (or over 30 million hectares) i.e. 43% is categorised as open forests, also called “degraded forests”, which have less than 40% canopy cover.³⁸ In addition, scrub, defined as “degraded forest land with canopy density of less than 10 per cent,”³⁹ constitutes 45,979 sq km area in the country.⁴⁰

a. Scale of diversion of forest for non-forest purposes

Diversion of forest for non-forest purposes has been reducing forest cover in India. According to the Ministry of Environment, Forest and Climate Change, a total of 4.135 million hectares of forest land was diverted for non-forest purposes (i.e. 1.65 lakh hectares per annum) “without any mitigative measures” from 1951-52 to 1975-76 i.e. prior to enactment of the Forest (Conservation) Act, 1980. Following the enactment of the Forest Conservation Act in 1980 till 2014, the Central Government accorded approvals under the Act for diversion of 1,178,195 hectares of forest land for non-forest purposes (i.e. 35,702 hectares per annum).⁴¹ Further, 21,179 hectares of lands were diverted during 2015-16⁴², 7772.6

³⁸. India State of Forest Report 2017, P.25, available at <http://fsi.nic.in/isfr2017/isfr-forest-cover-2017.pdf>

³⁹. India State of Forest Report 2017, P.21, available at <http://fsi.nic.in/isfr2017/isfr-forest-cover-2017.pdf>

⁴⁰. India State of Forest Report 2017, P.25, available at <http://fsi.nic.in/isfr2017/isfr-forest-cover-2017.pdf>

⁴¹. Ministry of Environment, Forest and Climate Change, Annual Report 2014-15, P.57, <http://www.moef.gov.in/sites/default/files/Environment%20Annual%20Report%20%20Eng..pdf>

⁴². Ministry of Environment, Forest and Climate Change, Annual Report 2015-16, P.59, <http://www.moef.gov.in/sites/default/files/Ministry%20of%20Environment%20Annual%20Report%202015-16%20English.pdf>

Ha diverted during 01.04.2016 to 31.12.2016,⁴³ and 12,055.84 Ha of lands were diverted during the period of 01.04.2017 to 23.01.2018.⁴⁴

b. Mandatory allocation of funds for afforestation in case of diversion of forest land for non-forest purposes

From 1995, the Supreme Court of India began playing a proactive role in the matters of forest policy governance. In a case *T.N. Godavarman Thirumulpad v/s Union of India (W.P. (Civil) No. 202 of 1995)*, the Supreme Court took action against large scale illegal felling of timber and denuding of forests in Gudalur Taluk, Tamil Nadu. Through the Godavarman case the Supreme Court continued to issue interim orders and judgements on several aspects including tree felling, operations of saw mills, violations of approvals for forest diversion, de-reservation of forests and many other matters related to compensatory afforestation. The Court in its order dated 12 December 1996 put a stop to all on-going activity like functioning of saw mills and mining within any forest in any State throughout the country that was being carried out without the approval of Central Government.⁴⁵

The Supreme Court in its order in *T.N. Godavarman Thirumulpad vs. Union of India and Others [Writ Petition (Civil) No. 202 of 1995]*, dated the 30th October 2002 directed the Government of India to create a Compensatory Afforestation Fund in which all the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of the diverted forest land or catchment area treatment plan shall be deposited.

The Supreme Court order on the Compensatory Afforestation Fund can be summarized below:

• Government of India, in consultation with Centrally Empowered Committee⁴⁶ (CEC) should frame the rules regarding constitution

⁴³. Ministry of Environment, Forest and Climate Change, Annual Report 2016-17, P.49, <http://www.moef.gov.in/sites/default/files/Environment%20AR%20English%202016-2017.pdf>

⁴⁴. Ministry of Environment, Forest and Climate Change, Annual Report 2017-18, P.52, <http://www.moef.gov.in/sites/default/files/22-03-18.pdf>

⁴⁵. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁴⁶. On 9 May 2002, the Supreme Court ordered the setting up of the Central Empowered Committee (CEC) with explicit functions of monitoring the implementation of the Court's orders, look into cases of non-compliance including those related to encroachments, implementation of working plans, compensatory afforestation, plantation and other conservation issues.

of a body and management of the Compensatory Afforestation Fund.

- Compensatory afforestation funds that had not yet been realised as well as the unspent funds already realised by the States should be transferred to the said body within six months of its constitution by the respective States and the user agencies.
- For getting permission for diverting forest land for non forest purposes, under Forest (Conservation) Act, 1980, the user agency should also pay into the said fund the net present value of the forest land so diverted.
- Site specific plans for artificial regeneration, assisted natural regeneration, protection of forests and other related activities should be prepared and implemented in a time bound manner.
- The funds received from the user agency in cases where forest land diverted fell within Protected Areas should be used exclusively for undertaking protection and conservation activities in protected areas of the respective States/Union Territories.
- An independent system of concurrent monitoring and evaluation should be evolved and implemented through the Compensatory Afforestation Fund to ensure effective and proper utilisation of funds.⁴⁷

The Ministry of Environment and Forests (MoEF) accordingly notified the Compensatory Afforestation Management Funds Management and Planning Authority (CAMPA) in April 2004 for the management of the Compensatory Afforestation Fund.⁴⁸

The Supreme Court however observed on 5th May 2006 that CAMPA had still not become operational and ordered the constitution of an Ad-hoc CAMPA till CAMPA became operational. It also directed that all the funds deposited on behalf of CAMPA to other departments/state governments would be transferred to the account managed by the Ad-hoc CAMPA.⁴⁹

⁴⁷. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁴⁸. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁴⁹. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

The Ministry of Environment and Forests introduced ‘The Compensatory Afforestation Fund Bill, 2008’ in the Parliament. The Bill was passed in Lok Sabha but could not come up for voting in Rajya Sabha and lapsed with the dissolution of Lok Sabha in May 2009.⁵⁰

On 8 May 2015, the Compensatory Afforestation Fund Bill 2015 was introduced by the government in Lok Sabha and the bill was sent for examination under a standing committee. It was passed by Rajya Sabha on 28 July 2016. On 3 August 2016, the Government of India notified the Compensatory Afforestation Fund Act, 2016 (No. 38 of 2016) in the Gazette of India.⁵¹

c. Findings of the Comptroller and Auditor General about the afforestation scam

The Audit of the “Compensatory Afforestation in India” during the period 2006 and 2012 conducted by the Comptroller and Auditor General (CAG) of India reveals the scale of the scam with the compensatory afforestation program i.e. undertaking compensatory afforestation on equivalent area of non-forest land to be received by the Government.

The CAG stated that the MoEF’s “records revealed that against the receivable non-forest land of 10,3381.91 hectares, 28,086 hectares was received during the period 2006-12 which constituted only 27 per cent of receivable non-forest land. The compensatory afforestation done over the non-forest land received was an abysmal 7,280.84 hectare constituting seven per cent of the land which ought to have been received. The afforestation over the degraded forest land was done only on 49,733.76 hectare and 49 km out of 101,037.35 ha and 54.5 km identified which worked out to 49 per cent (in area). Seven States viz. Gujarat, Haryana, Kerala, Maharashtra, Meghalaya, Punjab and Rajasthan carried out no compensatory afforestation either over non-forest land or over degraded forest land. By contrast the States of Assam and Odisha showed a high level of achievement with regard to compensatory afforestation, both over non-forest land and over degraded forest land.”

The CAG further stated, “The record with regard to transfer of ownership to the State Forest Department is equally dismal. Information made available by State/ UT CAMPA revealed that of the 23,246.80 hectare of non-forest land received by them only 11,294.38 hectare was transferred and mutated in the name of the State Forest Department. Of this 3,279.31 hectare was declared as

⁵⁰. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁵¹. Available at <http://www.ukcampa.org.in/Docs/CAMPA%20Act%202016.pdf>

Reserve Forest/ Protected Forest which was only 14 per cent of non forest land so received”.

The CAG also stated,

“Receipt of non-forest land is the starting point for undertaking compensatory afforestation. Yet on this critical element there was no meeting ground on the data maintained by the Ministry and State Governments. The variation in data on forest land diverted and non-forest land received was as much as 3.5 per cent and 17.3 per cent respectively between the data maintained by the regional offices of the Ministry and the State Forest Department. Poor quality and unreconciled data will compromise the quality of planning, operations and decision making.

In case of non-availability or short-availability of forest land, to be duly certified by the Chief Secretary, compensatory afforestation was to be undertaken over the degraded forest twice to the extent of the forest land diverted. It was observed that compensatory afforestation was allowed over an area of 75,905.47 hectare without any certificate of the Chief Secretary, in almost all the states except Delhi, Himachal Pradesh, Meghalaya and Sikkim. Only in two State/ UTs viz. Chandigarh and Uttarakhand, equivalent or more non-forest land was received.”⁵²

On diversion of forest lands in clear violations of the orders of the Supreme Court of India, the CAG⁵³ further stated,

“Audit also observed instances where express orders of the Supreme Court were flouted by Andhra Pradesh State Electricity Board where the diversion of forest land in Nagarjunasagar Dam was allowed without seeking prior permission of the Supreme Court. In five other cases unauthorized renewal of mining leases in Rajasthan and Odisha were noticed, where the approval of Central Government was not obtained by the State Government as was directed by the Supreme Court.

Numerous instances of unauthorized renewal of leases, illegal mining, continuance of mining leases despite adverse comments in the monitoring reports, projects operating without environment clearances, unauthorized change of status of forest land and arbitrariness in decisions of forestry clearances were observed. In six States where information was available,

⁵². CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁵³. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

encroachment of 155,169.82 hectare of forest land was noticed but MoEF did not take time bound action for eviction despite directions of the Supreme Court.”

There is absolute impunity. The CAG stated “*Absence of MIS/ consolidated database permitted individual cases of irregularities to remain unchecked. MoEF failed to appropriately discharge its responsibility of monitoring of compliance of conditions of the Forest (Conservation) Act, 1980 relating to diversion of forest land*”.⁵⁴

The CAG noted, “*Despite such gross non-compliance with statutory conditions and orders of the Supreme Court, no action was initiated by MoEF. In fact, MoEF had invoked penal provision only in three cases during the period August 2009 to October 2012 and even this action was only limited to issue of show cause notices. In our opinion penal clause prescribed in the Forest (Conservation) Act, 1980, was largely inadequate and ineffective to put any deterrence towards illegal and unauthorised practices*”.⁵⁵

Collection of Compensatory Afforestation Funds

The CAG stated that “*The Ad-hoc CAMPA was ineffective in ensuring complete and timely transfer of all monies collected by States/Union Territories (UTs) towards Compensatory Afforestation Fund to the Ad-hoc CAMPA accounts. There is no assurance that all the monies collected for compensatory afforestation funds by States/UTs have been deposited in the Ad-hoc CAMPA Compensatory Afforestation in India accounts. This could have been ensured only if a centralised data base indicating project wise amounts due, collected, remitted (or utilised by States/UTs prior to formation of Adhoc CAMPA) and balance lying with States/UTs was created. Divergence in data of transfer of funds available with Ad-hoc CAMPA and collected from States/UTs was Rs 6,021.88 crore which was 26.32 per cent of the principal amount with Ad-hoc CAMPA. Non-reconciliation of the same over years not only indicates laxity in controls but also raises doubts on the reliability and completeness of the data provided by all agencies concerned. Our test check also revealed that 23 State/ UTs had, at the least not transferred Rs 401.70 crore of compensatory afforestation fund to Ad-hoc CAMPA*”.⁵⁶

⁵⁴. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁵⁵. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁵⁶. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

For the period 2006 to 2012, the CAG on the basis of a test check in audit found non receipt of Rs 5,311.16 crore which constituted 23 per cent of the total principal amount with Ad-hoc CAMPA as on 31 March 2012. In some of the States where the amounts of non/ short recovery were significant include Odisha (Rs 1,235.26 crore), Jammu & Kashmir (Rs 861.80 crore), Madhya Pradesh (Rs 512.84 crore), Tripura (Rs 333.19 crore), Assam (Rs 223.28 crore), Uttarakhand (Rs 207.51 crore), Gujarat (Rs 176.02 crore), Jharkhand (Rs 116.18 crore), Manipur (Rs 106.45 crore) and Chhattisgarh (Rs 111.29 crore). MoEF/ Ad-hoc CAMPA/ State CAMPA did not have any system to monitor the correct assessment and collection of dues before giving final clearance for diversion of forest lands.⁵⁷

Utilisation of Compensatory Afforestation Funds

Out of Rs 2,925.65 crore of the compensatory afforestation funds released by Ad-hoc CAMPA during the period 2009-12 for compensatory afforestation activities, only Rs 1,775.84 crore were utilised by the State/ UTs leaving an unutilised balance of Rs 1,149.81 crore. The percentage of overall utilisation of released funds was only 61 per cent. In 11 of the selected 30 State/ UTs utilisation ranged between zero to 50 per cent which indicated poor absorptive capacity of the State/ UTs. Some of the States with very poor utilisation were Meghalaya (100 per cent), Arunachal Pradesh (91 per cent), Bihar (77 per cent), Tripura (68 per cent), Chhattisgarh (67 per cent), Andaman & Nicobar Islands (63 per cent) and Delhi (63 per cent). Most State/UTs were unable to spend the monies released to them by Ad-hoc CAMPA due to delay in preparation of Annual Plan of Operations, delayed release of funds resulting in setting in of a process of accumulation of compensatory afforestation funds in the States which was the problem sought to be addressed by the Supreme Court. The under utilization of funds indicates non-implementation of various Net Present Value/ Compensatory Afforestation schemes proposed in the Annual Plan of Operation by these State/UTs.

Nonetheless, during the period 2006 and 2012, the Compensatory Afforestation Funds with Ad-hoc CAMPA grew from Rs 1,200 crore to Rs 23,607.67 crore.⁵⁸

⁵⁷. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

⁵⁸. CAG Report No. : 21 of 2013, <http://www.indiaenvironmentportal.org.in/files/file/Compensatory%20Afforestation%20in%20India.pdf>

d. Are Rs 90,000 crore funds for afforestation programmes as of April 2018 promoting commercialization of forest?

Because of the non-implementation of the afforestation programmes for diversion of forests for non-forest purposes, the funds of the CAMPA are increasing by the day given that the funds cannot be diverted and deposited into accounts.

Minister of State in the Ministry of Environment, Forest and Climate Change Dr Mahesh Sharma informed the Lok Sabha on 10 August 2018 that as on 31.03.2018, the total amount available with various State / UT for afforestation programmes was Rs. 66,298 crore while only Rs. 14,418 crore was released upto 31.03.2018.⁵⁹ By April 2018, the CAMPA funds increased to Rs 90,000 crores i.e. over 15 billion US dollars.⁶⁰

The details of the Unstarred Question No.3938, answered on 10.08.2018 in the Lok Sabha are reproduced below :

S.No.	State/UT	Amount including Principal and interest (in Rs.)	Amount released to State/UT CAF till 31.03.2018 (in Rupees)
1	2		3
1	AndhraPradesh	36,68,39,59,506	9,46,70,15,000
2	Andaman& Nicobar Islands	41,76,56,836	5,76,87,000
3	ArunachalPradesh	24,52,23,89,291	3,58,36,84,000
4	Assam	7,57,65,49,374	1,50,88,58,100
5	Bihar	7,12,37,50,491	1,48,35,24,000
6	Chandigarh	18,99,53,636	4,85,22,000
7	Chhattisgarh	72,88,16,66,148	12,93,24,40,000
8	Dadra&NagarHaveli	19,94,25,842	32,18,000
9	Daman&Diu	1,27,31,758	-
10	Delhi	2,47,64,50,871	18,17,49,105
11	Goa	4,00,79,15,221	45,46,65,000
12	Gujarat	20,11,54,32,876	3,64,83,32,000
13	Haryana	16,32,16,58,812	2,74,95,50,000
14	HimachalPradesh	27,10,98,16,200	6,71,09,89,400
15	Jammu& Kashmir	15,54,61,21,190	2,77,78,35,000
16	Jharkhand	51,93,58,51,431	11,53,12,39,300

⁵⁹. Lok Sabha, Unstarred Question No.3938, answered on 10.08.2018

⁶⁰. Supreme Court pulls up Centre for not using Rs 90,000 crore meant for environment, Down To Earth, 11 April 2018, <https://www.downtoearth.org.in/news/environment/supreme-court-pulls-up-centre-for-not-using-rs-90-000-crore-meant-for-environment-60149>

17	Karnataka	19,82,15,12,315	5,27,78,33,000
18	Kerala	1,12,91,19,029	15,65,58,000
19	MadhyaPradesh	63,53,67,02,548	8,61,53,47,000
20	Maharashtra	50,29,49,53,949	11,20,68,65,000
21	Manipur	4,18,86,47,237	88,23,69,000
22	Meghalaya	1,93,51,02,390	23,72,64,000
23	Mizoram	1,20,74,49,539	37,67,52,000
24	Odisha	97,25,19,20,695	30,76,02,25,050
25	Punjab	13,71,57,77,176	3,42,46,63,878
26	Rajasthan	26,35,79,97,645	6,20,54,17,000
27	Sikkim	4,45,93,77,133	79,23,49,000
28	Tamil Nadu	1,48,07,82,280	30,08,29,000
29	Telangana	21,55,19,30,023	3,56,21,80,000
30	Tripura	2,57,64,22,125	43,61,36,300
31	UttarPradesh	25,57,17,61,335	5,89,83,85,400
32	Uttarakhand	38,01,17,25,003	8,53,38,90,000
33	West Bengal	2,77,32,93,766	37,41,53,000
	Grand Total	6,62,98,58,03,669	144,18,05,24,533

As stated above as per the CAG, during 2006 to 2012, the Compensatory Afforestation Funds with Ad-hoc CAMPA grew from Rs 1,200 crore to Rs 23,607.67 crore. If only Rs. 14,418 crore was released upto 31.03.2018,⁶¹ it implies that only 60% of the funds deposited by 2012 could be utilized.

This implies that India's compensatory afforestation programmes have failed. However, the CAMPA funds have the potential to become the source of another major scam and the involvement of the private sector increases the possibilities.

e. Are there enough lands and human resources to carry out the afforestation worth over Rs 90,000 crores?

The proper utilization of CAMPA funds i.e. afforestation requires both non-forest/ degraded forest lands to conduct the afforestation activities under certification from the State Government and capacity to utilize the resources.

Obviously, compensatory afforestation for diversion of forest land cannot take place in forest areas. Therefore, the lands for afforestation are available mainly in the "degraded forests" covered under the JFM or community forests recognized under the Forest Rights Act which are under the control of the Gram Sabha.

⁶¹. Lok Sabha, Unstarred Question No.3938, answered on 10.08.2018

Further, the Forest Department also does not have the capacity to undertake large-scale afforestation programmes and non-utilisation of Rs 90,000 crores⁶² explains the absolute lack of capacity and unwillingness.

As the Ministry of Environment, Forests and Climate Change does not have the capacity, in August 2015, it sent the guidelines to the states for “participation of private sector in afforestation of degraded forests”, as a means to outsource to commercial entities. It argued that *“ongoing national afforestation programmes have not been able to make the desired impact in improving productivity and quality of forest cover due to a lack of sufficient investment, capacity, technological upgradation and adequate skilled manpower.”*⁶³

The guidelines of the Ministry laid out a process of leasing out degraded forest lands to private parties for afforestation and extracting timber through open competitive bidding. The government had planned to first lease out the patches of forests with less than 10% canopy cover and then extend the scheme to forests with up to 40% canopy cover. The guidelines stated that tribal communities would be allowed to access non-timber forest produce from just 10% to 15% of the leased-out area. The government however had not put the guidelines in the public domain but they were leaked to the media.⁶⁴ Tribal rights activists opposed the move as they feared the plan would lead to the leasing out of forest lands traditionally used by forest dwellers to private companies in violation of the Forest Rights Act, 2016.⁶⁵

The CAMPA funds have turned out to be another curse for the Scheduled Tribes.

⁶². Supreme Court pulls up Centre for not using Rs 90,000 crore meant for environment, Down To Earth, 11 April 2018, <https://www.downtoearth.org.in/news/environment/supreme-court-pulls-up-centre-for-not-using-rs-90-000-crore-meant-for-environment-60149>

⁶³. Govt to allow pvt sector to manage 40% of forests, The Hindustan Times, 13 September 2015, <https://www.hindustantimes.com/india/govt-to-allow-pvt-sector-to-manage-40-of-forests/story-yOiG4TO4kA2kvykxXNTEBK.html>

⁶⁴. Centre seeks to change forest policy to promote industrial plantations in natural forests, Scroll.in, 22 March 2018, <https://scroll.in/article/872579/centre-seeks-to-change-forest-policy-to-promote-industrial-plantations-in-natural-forests>

⁶⁵. Centre seeks to change forest policy to promote industrial plantations in natural forests, Scroll.in, 22 March 2018, <https://scroll.in/article/872579/centre-seeks-to-change-forest-policy-to-promote-industrial-plantations-in-natural-forests>

5. Violations of international standards on sustainable forest management

For the first time climate change mitigation and adaptation has been inculcated in the Draft National Forest Policy 2018. The Preamble of the Draft National Forest Policy 2018 says that there is a need to revise the National Forest Policy, 1988 *“in order to integrate the vision of sustainable forest management by incorporating elements of ecosystem security, climate change mitigation and adaptation, forest hydrology, participatory forest management, urban forestry, robust monitoring and evaluation framework and establishment of mechanisms to oversee multi-stakeholder convergence in forest management, while building on our rich cultural heritage of co-existence and relying on our rich and diverse forest resources”*.

One of the goals of the proposed National Forest Policy is to *“integrate climate change mitigation and adaptation measures in forest management through the mechanism of REDD+ (Reducing Emissions from Deforestation and Forest Degradation plus) so that the impacts of the climate change is minimized”*.⁶⁶ At para 4.2.5, the draft policy refers to strategies to *“integrate climate change concerns & REDD+ strategies in forest management”*.

The REDD+ mechanism agreed by Parties at Cancun COP (Decision 1/CP.16) provides for *“the full and effective participation of relevant stakeholders, inter alia indigenous peoples and local communities”*⁶⁷ in the implementation of the components of REDD+ namely (a) Reducing emissions from deforestation; (b) Reducing emissions from forest degradation; (c) Conservation of forest carbon stocks; (d) Sustainable management of forests; and (e) Enhancement of forest carbon stocks.⁶⁸

The Draft National Forest Policy 2018 however does not provide for the participation of the indigenous peoples and local communities in the decision making processes. It has also failed to address the drivers of deforestation and forest degradation with a view to reducing emissions from deforestation and forest degradation and thus enhancing forest carbon stocks due to sustainable management of forests.

⁶⁶. Para 2.13 of the Draft National Forest Policy, 2018

⁶⁷. Para 72, Cancun Agreements (Decision 1/CP.16), <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

⁶⁸. Para 70, Cancun Agreements (Decision 1/CP.16), <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

Annexure 1: Draft National Forest Policy, 2018

F. No. 1-1/2012-FP(Vol. 4)

Government of India

Ministry of Environment, Forest & Climate Change

Forest Policy Division

Indira Paryavaran Bhawan,
Vayu Wing, 6th Floor,
Jor Bagh Road, Aliganj,
New Delhi -110 003

Dated 14th March, 2018

OFFICE MEMORANDUM

Sub: Draft National Forest Policy, 2018-Inviting comments/suggestions/ views of stakeholders including Public/Private Organizations, Experts and concerned citizens

The undersigned is directed to inform all concerned that the Ministry of Environment, Forest and Climate Change proposes to revise the existing National Forest Policy, 1988 in order to integrate the vision of sustainable forest & wildlife management by incorporating strategies for enhancing ecosystem, protection and conservation, climate change mitigation and adaptation, and improving the livelihood of the tribals and other forest dependent population.

2. In this context, a new Draft National Forest Policy, 2018 has been prepared by the Ministry after nation-wide consultation with all the relevant stakeholders and the same is enclosed herewith and placed in public domain for the information and for submission of specific comments.

3. All stakeholders including Public/Private organizations, Experts and concerned citizens are requested to kindly send the comments/ suggestions/ views on the enclosed Draft National Forest Policy, 2018 and the such comments should be very specific (indicate para of Draft NFP, 2018), crisp, holistic and relevant so that these comments could be considered by the Ministry for finalizing the new policy. The comments should be sent through E-mail in word file format including pdf version at digfpolicy-mef@nic.in/jitesh.kumar@nic.in/toforestpolicy@gmail.com (please mention "Draft National Forest Policy, 2018" in the subject of mailbox and provide details of your name/ name of organization including contact details/email while sending comments to us) within one month of time i.e by **14.04.2018**. Comments received beyond this deadline will not be considered.

Encl: as above.


(Noyal Thomas)

Dy. Inspector General of Forest (Forest Policy)

Tel: 24695323

To

All other relevant Stakeholders including Experts, Public/Private Organizations and concerned citizens.

F. No. 1-1/2012-FP (Vol.4)
Government of India
Ministry of Environment, Forest and Climate Change
Forest Policy Division

Draft National Forest Policy, 2018

1. Preamble

1.1 Forests are a dynamic ecosystem consisting of plants, animals & microorganisms safeguarding the ecological security of the nation. Forests provide the carbon neutral timber, non timber products like medicines, grasses, & other ecosystem services essential for the very survival of the human beings.

1.2 The forest policies of 1894 & 1952 have stressed on the production & revenue generation aspects of the forests where as the principal aim of National Forest Policy, 1988 was to ensure environmental stability and maintenance of ecological balance including atmospheric equilibrium which are vital for sustenance of all life forms, human, animals and plants. The 1988 Policy recognized that derivation of direct economic benefits must be subordinated to this principal aim. This policy has been instrumental in strengthening ecological security, sustainable forest management, and participatory forest management.

1.3 In the meantime India has been participating in several international summits and conventions on protection of forests, wildlife and environment and stands committed to the goals set in there. Several objectives have also emerged during debates and deliberations in seminars and workshops at National Level. In view of these it has become necessary to incorporate these goals and objectives in the National Forest Policy.

1.4 As a result of the implementation of the 1988 policy prescriptions, there has been an increase in forest and tree cover and reduction in the diversion of forest land for other land uses despite compelling demands from the increasing population, industrialization and rapid economic growth. However the , low quality and low productivity of our natural forests, impacts of climate change, human-wildlife conflict, intensifying water crisis, increasing air and water pollution and deteriorating environment have been the issues of serious concern.. The increased concerns for biodiversity conservation and the need to enhance forest ecosystem services, through new technological advancements and the continuously declining investments in the sector present new challenges for forest management in the country.

1.5 Hence there is a need to revise the National Forest Policy, 1988 in order to integrate the vision of sustainable forest management by incorporating elements of ecosystem security , climate change mitigation and adaptation, forest hydrology, participatory forest management, urban forestry, robust monitoring and evaluation framework and establishment of mechanisms to oversee multi-stakeholder convergence in forest management, while building on our rich cultural heritage of co-existence and relying on our rich and diverse forest resources.

2. Goal and Objectives

The overall objective and goal of the present policy is to safeguard the ecological and livelihood security of people, of the present and future generations, based on sustainable management of the forests for the flow of ecosystem services In order. to achieve the national goal for eco-security, the country should have a minimum of one-third of the total land area under forest and tree cover. In the hills and mountainous regions, the aim will be to maintain two-third of the area under forest & tree cover in order to prevent soil erosion and land degradation and also to ensure the stability of the fragile eco-systems.

The following objectives shall be guiding the National Forest Policy.

- 2.1 Maintenance of environmental stability and conservation of biodiversity through preservation and conservation of natural forests.
- 2.2 Reverse the degradation of forest by taking up rehabilitation without compromising its natural profile.
- 2.3 Improvement in livelihoods for people based on sustainable use of ecosystem services.
- 2.4 Contribute towards achieving forestry related Nationally Determined Contribution Targets (NDC's) of the country.
- 2.5 Checking denudation and soil erosion in the catchments of rivers and the wetlands through integrated watershed management techniques and practices.
- 2.6 Maintenance of the health of forest vegetation and forest soils for augmenting water supplies through recharge of underground aquifers and regulation of surface water flows.
- 2.7 Safeguard forest land by exercising strict restraint on diversion for non-forestry purposes, and strict oversight on compliance of the conditions.
- 2.8 Increasing substantially the forest/tree cover in the country through Afforestation & reforestation programmes, especially on all denuded and degraded forest lands and area outside forests.
- 2.9 Manage protected areas and other wildlife rich areas with the primary objective of biodiversity conservation and for enriching other ecosystem services.
- 2.10 Conserve and sustainably manage mountain forests to ensure continuous flow of ecosystem services, including watershed, biodiversity, cultural and spiritual services to both upstream and downstream population.
- 2.11 Factor green accounting, valuation of ecosystem services and climate change concerns adequately into the planning and management of all forests, protected areas and other ecosystems.
- 2.12 Increase substantially the tree cover outside forests by incentivizing agro-forestry and farm forestry, facilitating assured returns, with enabling regulations and by promoting use of wood products.
- 2.13 Integrate climate change mitigation and adaptation measures in forest management through the mechanism of REDD+(Reducing Emissions from Deforestation and Forest Degradation plus) so that the impacts of the climate change is minimised.
- 2.14 Incentivize sustainability in community managed, community owned private forests and creating a sustained peoples' movement for achieving these objectives.
- 2.15 Managing and expanding green spaces in urban and peri-urban areas to enhance citizens' well-being.
- 2.16 Ensure effective translation of this policy into action by establishing credible measuring, monitoring and evaluation framework, ensuring good governance, providing commensurate financial support and developing an implementation framework with periodic review.

3. Essential Principles of Forest Management:

The following essential management principles will be pursued in this policy:-

- 3.1 Existing natural forests should be fully protected and their productivity improved. Adequate measures will be taken to increase rapidly the forest cover on hill slopes, in catchment areas of rivers, lakes and reservoirs and ocean shores and, on semi-arid, and desert tracts.
- 3.2 Productivity of the forest plantations will be increased through scientific and technological interventions so as to encourage usage of more timber so that the dependency on other high carbon footprint wood substitutes is reduced.
- 3.3 Management of the natural biodiversity rich forests for maximising the ecosystem services for ecological security of the nation.
- 3.4 For conservation of flora, fauna and total biodiversity, the network of national parks, sanctuaries, conservation reserves, community reserves, biosphere reserves and important wildlife corridors and biodiversity heritage sites will be strengthened and extended adequately.

- 3.5 Afforestation with suitable species will be intensified so as to cater to the needs of the rural population for fuel wood and small timber. Further alternative sources of energy like LPG etc will be promoted in rural areas to reduce dependency on forests.
- 3.6 Non-Timber Forest Produce (NTFP) such as medicinal and aromatic plants, oil seeds, resins, wild edibles, fibre, bamboo and grass etc. will be sustainably managed for improving the income of the tribals & other forest dependent populations.
- 3.7 Promotion of trees outside forests & urban greens will be taken up on a mission mode for attaining the national goal of bringing one third of the area under Forests & trees cover and also for achieving the Nationally Determined Contribution (NDC's) targets of the country.

4. Strategy:

The following strategies will be adopted to achieve the objectives of this policy

4.1.1 Sustainable Management of Forests

(a) Reducing Threats to Forests

The various threats to Forests due to encroachments, illegal tree felling, forests fires, invasive weeds, grazing, etc. will be addressed within the framework of the approved Working Plan/ Management Plan and also by ensuring community participation in forest management.

(b) Forest fire prevention

With changes in climate and land use, fire is increasingly being viewed as a major threat to many forests and their biodiversity. Rising intensity and frequency of forest fires and their spread is resulting in substantial loss of forest functions and related ecosystem services every year. Adequate measures would be taken to safeguard ecosystems from forest fires, map the vulnerable areas and develop and strengthen early warning systems and methods to control fire, based on remote sensing technology and community participation. Also, awareness will be created about causes and impacts of fire on forests and local livelihoods.

(c) Enhance Quality and Productivity of natural forests

Many of our forest ecosystems have been significantly altered and degraded due to land conversion, pollution, over exploitation, deforestation and degradation etc. with adverse impacts on biological diversity and livelihoods of the local population. Protection and enrichment of dense forests will be a top priority. Degraded forests will be rehabilitated by promoting natural regeneration, by taking strict protection measures and also by planting locally suitable indigenous species for assisting the existing regeneration.

(d) Increase the productivity of forest plantations

Productivity of the forest plantations are poor in most of the States. This will be addressed by intensive scientific management of forest plantations of commercially important species like teak, sal, shisham, poplar, gmelina, eucalyptus, casuarina, bamboo etc. The lands available with the forest corporations which are degraded & underutilized will be managed to produce quality timber with scientific interventions. Public private participation models will be developed for undertaking Afforestation and reforestation activities in degraded forest areas and forest areas available with Forest Development Corporations and outside forests.

(e) Protecting & enriching the Catchments

Schemes and projects which interfere with forests that cover steep slopes, catchments of rivers, lakes, and reservoirs, geologically unstable terrain and such other ecologically sensitive areas shall be restricted. The

ecologically sensitive catchment areas shall be stabilized with suitable soil & water conservation measures and also by planting with suitable trees and grasses like bamboo etc.

(f) Biodiversity Conservation

Natural forests are rich repositories of biodiversity in the country. The following steps will be taken for the conservation of the biodiversity in the natural forests.

- (i) Biodiversity of the forest areas of the country will be surveyed and documented systematically, and sites having exceptional taxonomic and ecological value will be conserved. Legal and administrative measures for protection of biodiversity against bio-piracy will be taken, in sync with National Biodiversity Act.
- (ii) Modern techniques of ex-situ conservation will be promoted for the preservation of Relic, Endangered and Threatened (RET) species.

(g) Management of forests to be as per the approved Working Plan

Management of forests & forest plantations will be done as per the Central Government approved Working/Management plans, and also in accordance with the guidelines issued by the Government of India, Ministry of Environment, Forests and Climate Change from time to time. Private forests/ forest plantations/ tree lots will be regulated as per the management plans.

(h) Strengthen participatory forest management

India has rich and varied experience in participatory forest management. There is a need to further strengthen this participatory approach, for which a National Community Forest Management (CFM) Mission will be launched. This mission will have a legal basis and an enabling operational framework.. The national, state and local level development programmes shall be converged in these villages. All efforts to ensure synergy between Gram Sabha & JFMC will be taken for ensuring successful community participation in forest management.

(i) Management of Non Timber Forest Produce

Non-Timber Forest Produce (NTFP) such as medicinal and aromatic plants, oil seeds, resins, wild edibles, fibre, bamboo, grass etc. provide sustenance to forest dependent communities by supplementing their food and livelihood security. Such produce should be managed sustainably ensuring increased employment and income opportunities for the local communities. Value Chain approach that is climate-smart and market oriented and embedded in sustainability would be made compulsory and part of the business plans related to NTFP.

4.1.2 Management of trees outside forests

(a) Promote agro-forestry and farm forestry

Agro-forestry and farm forestry have taken deep roots in the country and Trees Outside Forests (TOF) are contributing to the increase in tree cover and enhancing ecosystem services, while meeting a bulk of the country's wood demand and providing climate resilient incomes to the farmers.. Thus promotion of wood use obtained from sustainably managed forests and trees would play a significant role in mitigating climate change and ensuring sustainable living. In view of this the following measures will be taken:

- (i) Agro-forestry and farm forestry would be encouraged through commensurate incentives and operational support systems..
- (ii) Systems for certification of improved planting material would be put in place.

- (iii) Price assurance to the farmers would be facilitated by putting in place pre-production agreements between the farmers and the forest based industries.
- (iv) Suitable location specific Public Private Partnership models will be developed involving Forest Departments, Forest development Corporations, Communities, Public limited companies etc for achieving the target of increased forest & tree cover in the country.
- (v) Promotion of cultivation, harvesting, transportation and marketing of wood would be ensured by relaxing the existing felling and transit regime in the country. Inclusion of agro forestry & farm forestry in the Agricultural crop insurance scheme would be facilitated. Also, agro forestry and farm forestry crop will also be included in National crop insurance scheme.
- (vi) Massive awareness and extension services for promotion of agro forestry will also be launched.

(b) Promoting urban greens

Urban greens include woodlands, wetlands, parks, wood in institutional areas, gardens, avenue plantations, block plantations etc in such areas. These green patches bring many aesthetic, recreational, environmental and economic benefits to cities and their dwellers. They need to be managed as urban forest ecosystems to enhance optimal urban forest cover and to nurture and sustain urban health, clean air and related benefits. Management plans will be prepared and implemented in consonance with the development plan of cities.

4.2 New Thrust Areas in forest & tree cover Management

4.2.1 Production Forestry

The demand for timber and other forest produce is showing an increasing trend and is likely to continue as the economy grows. The dependence on import has also been increasing drastically over the years. In order to ensure self sufficiency in timber, the States would be encouraged to further develop their plantation programmes with scientific inputs and genetically improved planting materials.

4.2.2 Economic valuation of the forests

Forests provide a wide range of tangible benefits like timber, fuel wood, fodder and a wide range of NTFPs and intangible benefits like ecological services, hydrological benefits, soil conservation, flood control, carbon sequestration, biodiversity conservation, amelioration of the overall environment, etc. Contribution of the forest to the national economy is estimated generally on the basis of the recorded removals of industrial wood, fuel wood and NTFPs, which is abysmally low as compared to the actuals. Scientific methods will be evolved for appropriate valuation of forests and their services through institutions of repute.

4.2.3 Forest management for water recycling

Water is critical for all life forms and is one of the most valuable outputs from the forests. Healthy forest ecosystems helps recharge of aquifers by increasing percolation and reducing surface runoff, thereby nourishing springs, streams, rivers and other aquatic systems. Forests and other ecosystems that function as key catchments need to be identified and conserved. Scientific catchment area treatment plans will be prepared and executed as part of the forest working/ management plans.

4.2.4 Forest Certification

A Credible certification process can provide premium on the products, which can enhance value of forest product harvested sustainably. Adoption of appropriate certification regimes will be encouraged though phase wise adoption of compatible standards and institutional framework in forest management.

4.2.5 Integrate climate change concerns & REDD+ strategies in forest management:

Forests acts as a natural sink of carbon dioxide thereby assisting in climate change mitigation. Use of wood products which have minimum carbon foot print will result in substitution of more emission-intensive

resources, by locking up carbon. Climate change impacts the structure, composition and functions of forest ecosystems, progressively affecting the embedded and dependent life forms. Strategic actions especially sustainable forest management as envisaged in REDD+ reference document for the country will be taken to strengthen forest-based climate change mitigation and adaptation as indicated below:

- (a) Afforestation and reforestation and assisting natural regeneration of the forests would be taken up to create an additional carbon sink while increasing the forest and tree cover and enhancing ecosystem services. All efforts for improving the quality of the degraded natural forests will be undertaken through appropriate interventions.
- (b) Agro-forestry and farm forestry sector will be encouraged to realise their full potential.
- (c) Sensitive ecosystems such as coastal and marine areas, mangroves, temperate and sub-alpine forests, alpine meadows, Western and Eastern Ghats etc. will be specially safeguarded.
- (d) Climate change concerns will be factored in all the forest and wildlife areas working/management plans and Community Ecosystem Management Plans.
- (e) Steps would be taken for promotion of wood technology innovations and enterprises. Intensive marketing and branding campaigns such as "Wood Is Good", "Grow more wood- use more wood" will be taken up for promotion of growing trees and usage of wood products.

4.2.6 Develop a national forest ecosystems management information system

Lack of adequate of pan country reliable and compatible datasets in the forestry sector is a matter of serious concern. Such comprehensive and reliable datasets are essential for scientific planning and management. Systems need to be designed and put in place to ensure a regular flow of reliable data from the states and other sources and making it available in the public domain. A national forest ecosystems management information system will be developed and made operational using the latest information and communication technology. Assessment of growing stock & carbon stock in Indian forests will be given more stress and importance.

4.3 Strengthen Wildlife Management

India has rich diversity of wild flora and fauna housed in varied ecosystems. Despite serious conservation challenges, the wildlife management in the country has demonstrated gains in protection of flagship species, securing key habitats and re-establishing wildlife populations. However, our wildlife habitats and corridors are being constantly altered due to increasing anthropogenic pressures, rising human animal conflicts, illegal trade in wild species and climate change impacts. Hence, there is an urgent need to renew the efforts to safeguard wildlife and secure their habitats. Following actions will be undertaken in this regard:-

- (a) Management of Protected Areas would be strengthened for preservation of habitats for maintaining natural biodiversity profile and ensuring natural pace of productivity, and flow of reproductive surpluses in surrounding areas for strengthening the stressed habitats outside PA's. The wildlife rich areas and corridors outside PA's would be identified and maintained for ensuring ecological and genetic continuity. Such areas would be effectively secured by strengthening enforcement, restoring habitats and managing ecological corridors.
- (b) Assessment of species for survival and recovery measures based on population and habitat viability parameters would form an integral and regular part of management planning and practices.
- (c) Human wildlife conflicts have escalated over the years due to combination of factors related to habitats and population of certain wildlife species within and outside forests. Regular spatial and temporal dynamics of conflicts would be assessed for formulating and implementing state level strategy for management of Human Wildlife Conflicts. Quick response, dedicated teams of well-equipped and trained personnel, mobility, strong interface with health and veterinary services, rescue centres, objective and speedy assessment of damage and quick payment of relief to the victims would be at the core of the short term action. Monitoring and management of population of wildlife would be adopted on a long term basis within and outside forests for maintaining the balance.

- (d) For tradable biodiversity a strong regime of inventory, assessment of status, and sustainability will be made part of the working/ management plans.
- (e) Import and trade of exotic species, their uses and upkeep shall be subjected to strict regulations to ensure that the native biodiversity does not face genetic contamination.
- (f) Wildlife crime and illegal trade pose grave challenge to conservation efforts. The existing central monitoring, sharing of information and on line updating of data on forest/ wildlife crime would be institutionalised and further strengthened. The detection, investigation and prosecution capacity shall be augmented by technical support in form of network of forensic laboratories.
- (g) Ecotourism models would be developed with a focus on conservation of the sites and nature education of the visitors while supplementing the livelihood needs of the local communities and without compromising the profile of habitats and behaviour of wildlife.
- (h) Zoological gardens, botanical gardens and biodiversity parks would be designed with modern and interactive methods for effective communication/interpretation about the value of flora and fauna as part of the awareness creation and nature education. Zoos and rescue centres would also be used for harbouring rescued species and conservation breeding.
- (i) Trans boundary and regional cooperation will be strengthened to effectively manage wildlife across borders.

4.4 Facilitate forest industry interface

There is a need to stimulate growth in the forest based industry sector. This sector being labour intensive can help in increasing green jobs. Forest corporations and industrial units need to step up growing of industrial plantations for meeting the demand of raw material. Forest based industries have already established captive plantations in partnership with the farmers. This partnership needs to be further expanded to ensure an assured supply of raw material to the industries with mutually beneficial arrangements. Further a forum for interaction and collaboration would be set up for Forest based industries with forestry institutions and concerned stakeholders so that a demand for trained professionals is created in the sector.

4.5 Research and Education

Scientific research in forestry and wildlife is the back bone of forest management and contributes to understanding of the forest dynamics leading to pragmatic conservation planning. Forestry/ wildlife education has also been adopted by many institutions and the students graduating are finding several career opportunities within and outside government.

In this context, to facilitate contemporary research and education following measures will be taken:-

- 4.5.1** Focus of forestry research will be on integrated and multidisciplinary research on forests and forest products for increasing livelihood support and economic growth.
- 4.5.2** Research on Forest inventory including growth yield assessment of forest products, ecosystem services etc will be taken up on priority.
- 4.5.3** Intensive and need-based research for biodiversity conservation, reclamation of degraded and mined areas for ecological security, integrated pest management, invasive alien species management, forest fires, forest hydrology and carrying capacity of ecosystems etc will be taken up on priority.
- 4.5.4** Research on enhancing the capacity of the forest ecosystems for carbon sequestration will be taken up on priority.
- 4.5.5** Increasing forest productivity through forest genetic resource management and tree improvement will be emphasised.
- 4.5.6** Policy research on various forests related issues will be undertaken in changing national scenario.
- 4.5.7** Promotion of forestry education and adoption of forestry curriculum addressing the contemporary priorities will be stressed.

- 4.5.8 Infrastructure and expertise available with the Indian Council of Forestry Research and Education (ICFRE), and other allied and state institutions, will be strengthened keeping in view the future trends in sustainable management and conservation of forests.
- 4.5.9 Collaboration with regional and international institutions of repute will be strengthened for multidisciplinary research to meet the policy goals and objectives.

4.6 Extension and awareness

Conservation and development of forest and related ecosystems cannot be effective without the willing support, involvement and cooperation of the people. It is essential, therefore, to inculcate in the people, a direct interest in forests, in their development and conservation. There is a need to make them conscious of the values of trees, wildlife and nature in general. This can be achieved through active involvement and participation of local governments, schools, colleges, NGOs, community based organizations, Eco- clubs, PSUs, corporate houses, trade unions and other institutions. Extension of forests, trees and wildlife and creating awareness regarding their importance will be encouraged. National and state awards will be instituted to recognize and reward exemplary work, both in the individual and institutional categories.

4.7 Management of North-Eastern Forests

The forests of North-East are endowed with rich biodiversity. These forests in North-East have vital impact on climate, agriculture production, and mitigation of floods in the plain areas of North-East. Most of the forests (about 85%-90%) are community owned. The following steps are suggested for the management of these forests:-

- 4.7.1 These forests will be treated as mosaic of community forest management landscapes and will be delineated and mapped having well defined digitized boundaries.
- 4.7.2 The capacity building of forest management by democratic institutions such as existing autonomous district councils and other authorities in North-East will be taken up by the State Forest Departments. Departments will also play proactive role in preparation of working plan and working schemes and management plans of protected areas in the North-East in totality.
- 4.7.3 The community ownership and participation for forest protection, conservation and increase in cover will be ensured.

4.8 Legal and institutional frameworks

Appropriate laws, rules and regulations, as per requirement, will be put in place and existing ones suitably amended for effective implementation of this policy. Institutionalized legal support will form an integral part of the forest administration and management. **A National Board of Forestry headed by the central minister in-charge of forests and State Boards of Forestry headed by state minister in-charge of forests will be established** for ensuring inter-sectoral convergence, simplification of procedures, conflict resolution and periodic review.

4.9 Training and Skill development

Stress will be given on training of frontline staff who are at the cutting edge of the forest department. The Directorate of Forest Education and various state training institutions will be strengthened for undertaking trainings for the field functionaries of the departments. Forest Skill Development Centres for skilling forest dependent population in forestry sector jobs will be instituted with the help of National Skill Development Corporation & State Skill Development Agencies. Further forum for interaction and collaboration would be set up for Forest based industries with forestry institutions so that a demand for trained professionals is created in the sector.

4.10 Financial support

Forests and wildlife management and improvement in government forests for ecological security, is a cost intensive government mandate. Increasing the green cover and enhancing quality of forests area will be organised with appropriate dovetailing of various sectoral budgets. Therefore, innovative approaches are needed for achieving the targets set for greening the country. Following actions will be pursued.

- 4.10.1 The budget of the forestry sector of the states will be enhanced proportionately to the allocation of central resources devolved, based on the finance commission weightage on forest resources of the States. Allocations for community development programmes especially those of agricultural and rural development in the states will also be utilised in forest areas in proportion of the population linked to the forests for life support.
- 4.10.2 Central assistance to the states will be enhanced for research, trainings/HRD, support for management of community rights in forests and wildlife management. National flagship programmes like forestry and wildlife research, management of protected areas, species recovery of identified species, management of human wildlife conflict, combating wildlife crime will be further strengthened with central funds.
- 4.10.3 The Compensatory Afforestation fund which is being transferred to the states would be a major source of funds for taking up Afforestation & rehabilitation works in degraded forest areas as well as for bringing new areas under forest & tree cover.
- 4.10.4 Efforts for tapping funds from other national sectors like Rural Development, Tribal Affairs, National Highways, Railways, Coal, Mines, Power, etc., will be taken for appropriate implementation of linking greening with infrastructure and other development activities.

4.11 Harmonization with other policies and laws

Forests influence, and in-turn are influenced by activities and functions of different sectors such as Tribal affairs, mining, water, roads, tourism, agriculture, rural development, industry, irrigation and transmission lines etc. As far as community forest resources management under Forest rights Act is concerned, the new policy will address the same under participatory forest management and the same will be addressed through the proposed community forest management mission. It is also seen that the prescriptions under the farm forestry and urban greenings will ensure synergy with the existing agroforestry policy also. Necessary collaborative steps will also be undertaken to ensure that the policies, laws and programmes of various sectors, both at Centre and State level are in harmony with the objectives of this policy.

4.12 Assimilation of International Commitment and foster regional Cooperation

India is party to a number of international conventions and instruments which have a direct bearing on Sustainable Forest Management, Biodiversity Conservation, Climate Change and Country's commitment to Sustainable Development Goals. Integration and assimilation of these multilateral agreements and commitments, as well as regional instruments and protocols into forestry program, strategies and plans will be ensured. Regional cooperation for forestry though trans-boundary landscape will need to be strengthened.

4.13 Good governance

The public service delivery system will be strengthened by optimizing human resource availability at all levels, through massive capacity building efforts, reinforcing transparency and accountability measures, prompt grievance redressal and use of cutting edge technology. Institutional restructuring to enable effective implementation of this policy will be facilitated wherever needed. Human resource strategy for professional foresters and forest scientists will aim at attracting and retaining qualified and motivated personnel, keeping in view, particularly the arduous nature of duties often in remote and inhospitable places. Opportunities for professional growth and specialization will be provided and proper utilization of such specialization will be ensured.

4.14 Implementation framework and way forward

This policy envisages that a national implementation framework be put in place to deliver on these policy commitments. States will also prepare an implementation framework. Such national and state level implementation frameworks would specify measurable targets, objectively verifiable indicators, financial allocations, time schedules etc. using the logical framework approach. It will also reflect learning from past experience, identify administrative reforms required, public financing needed, institutional design, human resource strategies, re-structuring of institutions and forest management at all levels and measures for improving institutional capacity.

4.15 Periodic review

The National and State Boards of Forestry will review implementation of this policy periodically. The achievements and progress made in implementing this policy will be monitored to ensure smooth and time-bound translation of this policy into action.

Annexure 2: National Forest Policy of 1988

No.3A/86-FP
Ministry of Environment and Forests
(Department of Environment, Forests & Wildlife)

Paryavaran Bhavan, CGO Complex,
Lodi Road, New Delhi - 110 003.
Dated the 7th December, 1988.

RESOLUTION

National Forest Policy, 1988

1. PREAMBLE

1.1. In Resolution No. 13/52-F, dated the 12th May 1952, the Government of India in the erstwhile Ministry of Food and Agriculture enunciated a Forest Policy to be followed in the management of State Forests in the country. However, over the years, forests in the country have suffered serious depletion. This is attributable to relentless pressures arising from ever-increasing demand for fuelwood, fodder and timber; inadequacy of protection measures; diversion of forest lands to non-forest uses without ensuring compensatory afforestation and essential environmental safeguards; and the tendency to look upon forests as revenue earning resource. The need to review the situation and to evolve, for the future, a new strategy of forest conservation has become imperative. Conservation includes preservation, maintenance, sustainable utilisation, restoration, and enhancement of the natural environment. It has thus become necessary to review and revise the National Forest Policy.

2. BASIC OBJECTIVES

2.1 The basic objectives that should govern the National Forest Policy are the following

- Maintenance of environmental stability through preservation and, where necessary, restoration of the ecological balance that has been adversely disturbed by serious depletion of the forests of the country.
- Conserving the natural heritage of the country by preserving the remaining natural forests with the vast variety of flora and fauna, which represent the remarkable biological diversity and genetic resources of the country.
- Checking soil erosion and denudation in the catchment areas of rivers, lakes, reservoirs in the interest of soil and water conservation, for mitigating floods and droughts and for the retardation of siltation of reservoirs.
- Checking the extension of sand-dunes in the desert areas of Rajasthan and along the coastal tracts.
- Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programmes, especially on all denuded, degraded and unproductive lands.
- Meeting the requirements of fuelwood, fodder, minor forest produce and small timber of the rural and tribal populations.
- Increasing the productivity of forests to meet essential national needs.
- Encouraging efficient utilisation of forest produce and maximising substitution of wood.

- Creating a massive people's movement with the involvement of women, for achieving these objectives and to minimise pressure on existing forests.

2.2 The principal aim of Forest Policy must be to ensure environmental stability and maintenance of ecological balance including atmospheric equilibrium which are vital for sustenance of all lifeforms, human, animal and plant. The derivation of direct economic benefit must be subordinated to this principal aim.

3. ESSENTIALS OF FOREST MANAGEMENT

3.1 Existing forests and forest lands should be fully protected and their productivity improved. Forest and vegetal cover should be increased rapidly on hill slopes, in catchment areas of rivers, lakes and reservoirs and ocean shores and on semi-arid, and desert tracts.

3.2 Diversion of good and productive agricultural lands to forestry should be discouraged in view of the need for increased food production.

3.3 For the conservation of total biological diversity, the network of national parks, sanctuaries, biosphere reserves and other protected areas should be strengthened and extended adequately.

3.4 Provision of sufficient fodder, fuel and pasture, specially in areas adjoining forest, is necessary in order to prevent depletion of forests beyond the sustainable limit. Since fuelwood continues to be the predominant source of energy in rural areas, the programme of afforestation should be intensified with special emphasis on augmenting fuelwood production to meet the requirement of the rural people.

3.5 Minor forest produce provides sustenance to tribal population and to other communities residing in and around the forests. Such produce should be protected, improved and their production enhanced with due regard to generation of employment and income.

4. STRATEGY

4.1 Area under forests

The national goal should be to have a minimum of one-third of the total land area of the country under forest or tree cover. In the hills and in mountainous regions, the aim should be to maintain two-third of the area under such cover in order to prevent erosion and land degradation and to ensure the stability of the fragile eco-system.

4.2 Afforestation, Social Forestry & Farm Forestry :

4.2.1 A massive need-based and timebound programme of afforestation and tree planting, with particular emphasis on fuelwood and fodder development, on all degraded and denuded lands in the country, whether forest or non-forest land, is a national imperative.

4.2.2 It is necessary to encourage the planting of trees alongside of roads, railway lines, rivers and streams and canals, and on other unutilised lands under State/corporate, institutional or private ownership. Green belts should be raised in urban/industrial areas as well as in and tracts. Such a programme will help to check erosion and desertification as well as improve the micro-climate.

4.2.3 Village and community lands, including those on foreshores and environs of tanks, not required for other productive uses, should be taken up for the development of tree crops and fodder resources. Technical assistance and other inputs necessary for initiating such programmes should be provided by the Government. The revenues generated through such programmes should belong to the panchayats where the lands are vested in them; in all other cases, such revenues should be shared with the local communities in order to provide an incentive to them. - The vesting, in individuals, particularly from the weaker sections (such as landless labour, small and marginal farmers, scheduled castes, tribals, women) of certain ownership rights over trees, could be considered, subject to appropriate regulations; beneficiaries would be entitled to usufruct and would in turn be responsible for their security and maintenance.

4.2.4 Land laws should be so modified wherever necessary so as to facilitate and motivate individuals and institutions to undertake tree-fanning and grow fodder plants, grasses and legumes on their own land. Wherever possible, degraded lands should be made available for this purpose either on lease or on the basis of a tree-patta scheme. Such leasing of the land should be subject to the land grant rules and land ceiling laws. Steps necessary to encourage them to do so must be taken. Appropriate regulations should govern the felling of trees on private holding.

4.3 MANAGEMENT OF STATE FORESTS

4.3.1 Schemes and projects which interfere with forests that clothe steep slopes, catchments of rivers, lakes, and reservoirs, geologically unstable terrain and such other ecologically sensitive areas should be severely restricted. Tropical rain/moist forests, particularly in areas like Arunachal Pradesh, Kerala, Andaman & Nicobar Islands, should be totally safeguarded.

4.3.2 No forest should be permitted to be worked without the Government having approved the management plan, which should be in a prescribed format and in keeping with the National Forest Policy. The Central Government should issue necessary guidelines to the State Government in this regard and monitor compliance.

4.3.3 In order to meet the growing needs for essential goods and services which the forests provide, it is necessary to enhance forest cover and productivity of the forests through the application of scientific and technical inputs. Production forestry programmes, while aiming at enhancing the forest cover in the country, and meeting national needs, should also be oriented to narrowing, by the turn of the century, the increasing gap between demand and supply of fuelwood. No such programme, however, should entail clear-felling of adequately stocked natural forests. Nor should exotic species be introduced, through public or private sources, unless long-term scientific trials undertaken by specialists in ecology, forestry and agriculture have established that they are suitable and have no adverse impact on native vegetation and environment.

4.3.4 Rights and Concessions

4.3.4.1 The rights and concessions, including gazing, should always remain related to the carrying capacity of forests. The capacity itself should be optimised by increased investment, silvicultural research and development of the area. Stall-feeding of cattle should be encouraged. The requirements of the community, which cannot be met by the rights and concessions so determined, should be met by development of social forestry outside the reserved forests.

4.3.4.2 The holders of customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive benefits. The rights and concessions from forests should primarily be for the bonafide use of the communities living within an around forest areas, specially the tribals.

4.3.4.3 The life of tribals and other poor living within and near forests revolves around forests. The rights and concessions enjoyed by them should be fully protected. Their domestic requirements of fuelwood, fodder, minor forest produce and construction timber should be the first charge on forest produce. These and substitute materials should be made available through conveniently located depots at reasonable prices.

4.3.4.4 Similar consideration should be given to scheduled castes and other poor living near forests. However, the area, which such consideration should cover, would be determined by the carrying capacity of the forests.

4.3.5 Wood is in short supply. The long-term solution for meeting the existing gap lies in increasing the productivity of forests, but to relieve the existing pressure on forests for the demands of railway sleepers, construction industry (particularly in the public, sector), furniture and panelling, mine-pit props, paper and paperboard etc. substitution of wood needs to be taken recourse to. Similarly, on the front of domestic energy, fuelwood needs to be substituted as far as practicable with alternate sources like bio-gas, LPG and solar energy. Fuel-efficient "Chulhas" as a measure of conservation of fuelwood need to be popularised in rural areas.

4.4 Diversion of forest lands for non-forest purposes

4.4.1 Forest land or land with tree cover should not be treated merely as a resource readily available to be utilised for various projects and programmes, but as a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for any-non-forest purpose should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits. Construction of dams and reservoirs, mining and industrial development and expansion of agriculture should be consistent with the needs for conservation of trees and forests. Projects which involve such diversion should at least provide, in their investment budget, funds for regeneration/ compensatory afforestation.

4.4.2 Beneficiaries who are allowed mining and quarrying in forest land and in land covered by trees should be required to repair and re-vegetate the area in accordance with established forestry practices. No mining lease should be granted to any party, private or public, without a proper mine management plan appraised from the environmental angle and enforced by adequate machinery.

4.5 Wildlife Conservation

Forest Management should take special care of the needs of wildlife conservation, and forest management plans should include prescriptions for this purpose. It is specially essential to provide for "corridors" linking the protected areas in order to maintain genetic continuity between artificially separated sub-sections of migrant wildlife.

4.6 Tribal People and Forests

Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest. While special attention to the following :

- One of the major causes for degradation of forest is illegal cutting and removal by contractors and their labour. In order to put an end to this practice, contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives, government corporations, etc. as early as possible.
- Protection, regeneration and optimum collection of minor forest produce along with institutional arrangements for the marketing of such produce;
- Development of forest villages on par with revenue villages;
- Family oriented schemes for improving the status of the tribal beneficiaries; and
- Undertaking integrated area development programmes to meet the needs of the tribal economy in and around the forest areas, including the provision of alternative sources of domestic energy on a subsidised basis, to reduce pressure on the existing forest areas.

4.7 Shifting Cultivation

Shifting cultivation is affecting the environment and productivity of land adversely. Alternative avenues of income, suitably harmonised with the right landuse practices, should be devised to discourage shifting cultivation. Efforts should be made to contain such cultivation within the area already affected, by propagating improved agricultural practices. Area already damaged by such cultivation should be rehabilitated through social forestry and energy plantations.

4.8 Damage to Forests from Encroachments, Fires and Grazing

4.8.1 Encroachment on forest lands has been on the increase. This trend has to be arrested and effective action taken to prevent its continuance. There should be no regularisation of existing encroachments.

4.8.2 The incidence of forest fires in the country is high. Standing trees and fodder are destroyed on a large scale and natural regeneration annihilated by such fires. Special precautions should be taken during the fire season. Improved and modern management practices should be adopted to deal with forest fires.

4.8.3 Grazing in forest areas should be regulated with the involvement of the community. Special conservation areas, young plantations and regeneration areas should be fully protected. Grazing and browsing in forest areas need to be controlled. Adequate grazing fees should be levied to discourage people in forest areas from maintaining large herds of non-essential livestock.

4.9 Forest based Industries

The main considerations governing the establishment of forest-based industries and supply of raw material to them should be as follows:

- As far as possible, a forest-based industry should raise the raw material needed for meeting its own requirements, preferably by establishment of a direct relationship between the factory and the individuals who can grow the raw material by supporting the individuals with inputs including credit, constant technical advice and finally harvesting and transport services.
- No forest-based enterprise, except that at the village or cottage level, should be permitted in the future unless it has been first cleared after a careful scrutiny with regard to assured availability of raw material. In any case, the fuel, fodder and timber requirements of the local population should not be sacrificed for this purpose.
- Forest based industries must not only provide employment to local people on priority but also involve them fully in raising trees and raw-material.
- Natural forests serve as a gene pool resource and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for undertaking plantation and for any other activities.
- Farmers, particularly small and marginal farmers would be encouraged to grow, on marginal/degraded lands available with them, wood species required for industries. These may also be grown along with fuel and fodder species on community lands not required for pasture purposes, and by Forest department/corporations on degraded forests, not earmarked for natural regeneration.
- The practice of supply of forest produce to industry at concessional prices should cease. Industry should be encouraged to use alternative raw materials. Import of wood and wood products should be liberalised.
- The above considerations will however, be subject to the current policy relating to land ceiling and land-laws.

4.10 Forest Extension

Forest conservation programme cannot succeed without the willing support and cooperation of the people. It is essential, therefore, to inculcate in the people, a direct interest in forests, their development and conservation, and to make them conscious of the value of trees, wildlife and nature in general. This can be achieved through the involvement of educational institutions, right from the primary stage. Farmers and interested people should be provided opportunities through institutions like Krishi Vigyan Kendras, Trainers' Training Centres to learn agrosilvicultural and silvicultural techniques to ensure optimum use of their land and water resources. Short term extension courses and lectures should be organised in order to educate farmers. For this purpose, it is essential that suitable programmes are propagated through mass media, audio-visual aids and the extension machinery.

4.11 Forestry Education

Forestry should be recognised both as a scientific discipline as well as a profession. Agriculture universities and institutions dedicated to the development of forestry education should formulate curricula and courses

for imparting academic education and promoting post-graduate research and professional excellence, keeping in view the manpower needs of the country. Academic and professional qualifications in forestry should be kept in view for recruitment to the Indian Forest Service and the State Forest Service. Specialised and orientation courses for developing better management skills by in service training need to be encouraged, taking into account the latest development in forestry and related disciplines.

4.12 Forestry Research

With the increasing recognition of the importance of forests for environmental health, energy and employment, emphasis must be laid on scientific forestry research, necessitating adequate strengthening of the research base as well as new priorities for action. Some broad priority areas of research and development needing special attention are:

- i. Increasing the productivity of wood and other forest produce per unit of area per unit time by the application of modern scientific and technological methods.
- ii. Revegetation of barren/marginal/waste/mined lands and watershed areas.
- iii. Effective conservation and management of existing forest resources (mainly natural forest ecosystems).
- iv. Research related to social forestry for rural/tribal development.
- v. Development of substitutes to replace wood and wood products.
- vi. Research related to wildlife and management of national parks and sanctuaries.

4.13 Personnel Management

Government policies in personnel management for professional foresters and forest scientists should aim at enhancing their professional competence and status and attracting and retaining qualified and motivated personnel, keeping in view particularly the arduous nature of duties they have to perform, often in remote and inhospitable places.

4.14 Forest Survey and Data Base

Inadequacy of data regarding forest resources is a matter of concern because this creates a false sense of complacency. Priority needs to be accorded to completing the survey of forest resources in the country on scientific lines and to updating information. For this purpose, periodical collection, collation and publication of reliable data on relevant aspects of forest management needs to be improved with recourse to modern technology and equipment.

4.15 Legal Support and Infrastructure Development

Appropriate legislation should be undertaken, supported by adequate infrastructure, at the Centre and State levels in order to implement the Policy effectively.

4.16 Financial Support for Forestry

The objectives of this revised Policy cannot be achieved without the investment of financial and other resources on a substantial scale. Such investment is indeed fully justified considering the contribution of forests in maintaining essential ecological processes and life-support systems and in preserving genetic diversity. Forests should not be looked upon as a source of revenue. Forests are a renewable natural resource. They are a national asset to be protected and enhanced for the well-being of the people and the Nation.

(K.P. Geethakrishnan)
Secretary to the Government of India

PESA,1996

THE PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996No.40 OF 1996

(24th December, 1996)

An Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:-

Short title

1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

Definition

2. In this Act, unless the context otherwise requires, "Scheduled Areas" means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution.

Extension of part IX of The Constitution

3. The provision of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4.

Exceptions and modifications to part IX of The Constitution

4. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:-

(a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

(b) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;

(c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

(d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;

(e) every Gram Sabha shall-

i. approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

ii. be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;

(f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause(e);

(g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution;

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;

(h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

(i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;

- (j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;
- (k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;
- (l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;
- (m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with-
 - (i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;
 - (ii) the ownership of minor forest produce;
 - (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;
 - (iv) the power to manage village markets by whatever name called;
 - (v) the power to exercise control over money lending to the Scheduled Tribes;
 - (vi) the power to exercise control over institutions and functionaries in all social sectors;
 - (vii) the power to control over local plans and resources for such plans including tribal sub-plans;
- (n) the State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;

(o) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

Continuance of existing laws on panchayats:

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President;

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

K.L. MOHANPURIA,

Secy. To the Govt. of India

Annexure 4: Forest Rights Act of 2006

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

ARRANGEMENT OF SECTIONS

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FOREST RIGHTS

3. Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers.

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7. Offences by members or officers of authorities and Committees under this Act.
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CHAPTER VI

MISCELLANEOUS

9. Members of authorities, etc., to be public servants.
10. Protection of action taken in good faith.
11. Nodal agency.
12. Power of Central Government to issue directions.
13. Act not in derogation of any other law.
14. Power to make rules.

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS
(RECOGNITION OF FOREST RIGHTS) ACT, 2006

ACT NO. 2 OF 2007

[29th December, 2006.]

An Act to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER 1

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “community forest resource” means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;

(b) “critical wildlife habitat” means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;

(c) “forest dwelling Scheduled Tribes” means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs and includes the Scheduled Tribe pastoralist communities;

1. 31st December, 2007, vide notification No. S. O. 2224(E), dated 31st December, 2007, see Gazette of India Extraordinary, Part II, sec 3(ii)

(d) "forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(e) "forest rights" means the forest rights referred to in section 3;

(f) "forest villages" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of *taungya* settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;

(g) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

(h) "habitat" includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;

(i) "minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

(j) "nodal agency" means the nodal agency specified in section 11;

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "Scheduled Areas" means the Scheduled Areas referred to in clause (1) of article 244 of the Constitution;

(n) "sustainable use" shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002 (18 of 2003);

(o) "other traditional forest dweller" means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs.

Explanation.—For the purpose of this clause, "generation" means a period comprising of twenty-five years;

(p) "village" means—

(i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996); or

(ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

(q) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 (53 of 1972) and found wild in nature.

CHAPTER II

FOREST RIGHTS

3. Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers.—(1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;

(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to *in situ* rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980 (69 of 1980), the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:—

(a) schools;

(b) dispensary or hospital;

(c) *anganwadis*;

- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres;

Provided that such diversion of forest land shall be allowed only if,—

- (i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

4. Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.—(1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in—

- (a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;
 - (b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.
- (2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:—
- (a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;
 - (b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 (53 of 1972) that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;
 - (c) the State Government has concluded that other reasonable options, such as, co-existence are not available;
 - (d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;
 - (e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package;

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.

(6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980 (69 of 1980), requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

(8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

5. Duties of holders of forest rights.—The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

6. Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof.—(1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such

rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition:

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

(8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

7. Offences by members or officers of authorities and Committees under this Act.—Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

8. Cognizance of offences.—No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

CHAPTER VI

MISCELLANEOUS

9. Members of authorities, etc., to be public servants.—Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

10. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

11. Nodal agency.—The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

12. Power of Central Government to issue directions.—In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

13. Act not in derogation of any other law.—Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996), the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

14. Power to make rules.—(1) The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;

(d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Annexure 5: Forest Rights Rules of 2012

रजिस्ट्री सं० डी० एल०-13004/99

REGD. NO. D L-33004/99



MINISTRY OF TRIBAL AFFAIRS
NOTIFICATION

New Delhi, the 6th September, 2012

¹ G.S.R. 669(E).-- WHEREAS the draft Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 were published, as required by sub-section (1) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the notification of the Government of India in the Ministry of Tribal Affairs number G.S.R.578(E), dated the 19th July, 2012 in the Gazette of India, Part II, Section 3, sub-section (i) of the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of thirty days from the date on which the copies of the Gazette containing the said notification are made available to the public;

AND WHEREAS copies of the said Gazette were made available to the public as on July 20, 2012;

AND WHEREAS the objections and suggestions received from the public in respect of the said draft amendment rules have been duly considered by the Central Government;

NOW, THEREFORE, in exercise of the powers conferred by sub-sections (1) and (2) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the Central Government hereby makes the following rules to amend the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, namely:-

1. **SHORT TITLE, EXTENT AND COMMENCEMENT** - (1) these rules may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012.

¹ Published in the Gazette of India, (Extra), Part II, Section 3 (i), dated 06.09.2012

- (2) They shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) They shall come into force on the date of their publication in the Official Gazette.

2. DEFINITIONS - (1) In these rules, unless the context otherwise requires,-

- (a) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- (b) [²"bona fide livelihood needs" means fulfilment of livelihood needs of self and family through exercise of any of the rights specified in sub-section (1) of section 3 of the Act and includes sale of surplus produce arising out of exercise of such rights;]
- (c) "claimant" means an individual, group of individuals, family or community making a claim for recognition and vesting of rights listed in the Act;
- [³(ca)"community rights" means the rights listed in clauses (b), (c), (d), (e), (h), (i), (j), (k) and (l) of sub-section (1) of section 3;]
- (d) [⁴"disposal of minor forest produce" under clause (c) of sub-section (1) of section 3 shall include right to sell as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihood;

Explanation:- (1) The transit permit regime in relation to transportation of minor forest produce shall be modified and given by the Committee constituted under clause (e) of sub-rule (1) of rule 4 or the person authorized by the Gram Sabha,

(2) This procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of minor forest produce,

(3) The collection of minor forest produce shall be free of all royalties or fees or any other charges;]

- (e) "Forest Rights Committee" means a committee constituted by the Gram Sabha under rule 3;
- (f) "section" means the section of the Act;

- (2) The words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

[⁵2A. IDENTIFICATION OF HAMLETS OR SETTLEMENTS AND PROCESS OF THEIR CONSOLIDATION – The State Government shall ensure that –

- (a) every panchayat, within its boundaries, prepares a list of group of hamlets or habitations, unrecorded or unsurveyed settlements or forest villages or taungya villages, formally not part of any Revenue or Forest village record and have this list passed by convening Gram Sabha of each such habitation, hamlets or

² Clause (b) of sub-rule (1) in rule 2, substituted by G.S.R. 669(E), dated 06.09.2012

³ Clause (ca) of sub-rule (1) in rule 2, inserted by G.S.R. 669(E), dated 06.09.2012

⁴ Clause (d) of sub-rule (1) in rule 2, substituted by G.S.R. 669(E), dated 06.09.2012

⁵ Rule 2A, inserted by G.S.R. 669(E), dated 06.09.2012

habitations included as villages for the purpose of the Act through a resolution in the Panchayat and submit such list to Sub Division Level Committee;

- (b) the Sub-Divisional Officers of the Sub Division Level Committee consolidate the lists of hamlets and habitations which at present are not part of any village but have been included as villages within the Panchayat through a resolution, and are formalized as a village either by adding to the existing village or otherwise after following the process as provided in the relevant State laws and that the lists are finalized by the District Level Committee after considering public comments, if any;
 - (c) on finalization of the lists of hamlets and habitations, the process of recognition and vesting of rights in these hamlets and habitations is undertaken without disturbing any rights, already recognized.]
- 3. GRAM SABHA-** (1) The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein [⁶ at least two-third members shall be the Scheduled Tribes:]

Provided that not less than one-third of such members shall be women;

Provided further that where there are no Scheduled Tribes, at least one third of such members shall be women.

- (2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.
- (3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.
- [⁷(4) The Forest Rights Committee shall not reopen the forest rights recognized or the process of verification of the claims already initiated before the date of coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendments Rules, 2012.]

4. FUNCTIONS OF THE GRAM SABHA - (1) The Gram Sabha shall -

- (a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;
- (b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;
- (c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;

⁶ The words "at least one-third members" substituted by G.S.R. 669(E), dated 06.09.2012

⁷ Sub-rule (4), inserted by G.S.R. 669(E), dated 06.09.2012

- (d) consider resettlement packages under clause (e) of sub section (2) of section 4 of the Act and pass appropriate resolutions; and
- (e) Constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act.
- (f) [⁸monitor and control the committee constituted under clause (e) which shall prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling Scheduled Tribes and other Traditional Forest Dwellers and integrate such conservation and management plan with the micro plans or working plans or management plans of the forest department with such modifications as may be considered necessary by the committee.]
- (g) [⁹approve all decisions of the committee pertaining to issue of transit permits, use of income from sale of produce, or modification of management plans.]

[¹⁰(2)The quorum of the Gram Sabha meeting shall be not less than one-half of all members of such Gram Sabha:

Provided that at least one-third of the members present shall be women;

Provided further that where any resolutions in respect of claims to forest rights are to be passed, at least fifty per cent of the claimants to forest rights or their representatives shall be present;

Provided also that such resolutions shall be passed by a simple majority of those present and voting.]

(3) The Gram Sabha shall be provided with the necessary assistance by the authorities in the State.

5. SUB-DIVISIONAL LEVEL COMMITTEE - The State Government shall constitute Sub-Divisional Level Committee with the following members, namely:-

- (a) Sub-Divisional Officer or equivalent officer - Chairperson;
- (b) Forest Officer in charge of a Sub-division or equivalent officer - member;
- (c) three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member; and
- (d) an officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

⁸ Clause (f) of sub-rule (1) in rule 4, inserted by G.S.R. 669(E), dated 06.09.2012

⁹ Clause (g) of sub-rule (1) in rule 4, inserted by G.S.R. 669(E), dated 06.09.2012

¹⁰ Sub-rule (2) of Rule 4, substituted by G.S.R. 669(E), dated 06.09.2012

6. FUNCTIONS OF THE SUB-DIVISIONAL LEVEL COMMITTEE - The Sub-Divisional Level Committee (SDLC) shall –

- (a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected ;
- (b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- (c) collate all the resolutions of the concerned Gram Sabhas;
- (d) consolidate maps and details provided by the Gram Sabhas;
- (e) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
- (f) hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- (g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram Sabhas;
- (h) co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims ;
- (i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records;
- (j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;
- (k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules ;
- (l) [¹¹ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A, B & C) of these rules;]
- (m) ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.

7. DISTRICT LEVEL COMMITTEE - The State Government shall constitute District Level Committee (DLC) with the following members, namely:-

- (a) District Collector or Deputy Commissioner - Chairperson;
- (b) concerned Divisional Forest Officer or concerned Deputy Conservator of Forest - member;
- (c) three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member; and

¹¹ Clause (l) of Rule 6, substituted by G.S.R. 669(E), dated 06.09.2012

- (d) an officer of the Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in charge of the tribal affairs.

8. FUNCTIONS OF DISTRICT LEVEL COMMITTEE - The District Level Committee shall –

- (a) ensure that the requisite information under clause (b) of rule 6 has been provided to Gram Sabha or Forest Rights Committee;
- (b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;
- (c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;
- (d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;
- (e) co-ordinate with other districts regarding inter-district claims;
- (f) issue directions for incorporation of the forest rights in the relevant government records including record of rights;
- (g) ensure publication of the record of forest rights as may be finalized; ¹²[xxx]
- (h) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexures II & III to these rules, is provided to the concerned claimant and the Gram Sabha respectively ; ¹³and]
- (i) ¹⁴ensure that a certified copy of the record of the right to community forest resource and title under the Act, as specified in Annexure IV to these rules, is provided to the concerned Gram Sabha or the community whose rights over community forest resource have been recognized under clause (i) of sub-section (1) of section 3.]

9. STATE LEVEL MONITORING COMMITTEE - The State Government shall constitute a State Level Monitoring Committee with the following members, namely:-

- (a) Chief Secretary - Chairperson;
- (b) Secretary, Revenue Department - member;
- (c) Secretary, Tribal or Social Welfare Department - member;
- (d) Secretary, Forest Department - member;
- (e) Secretary, Panchayati Raj - member;
- (f) Principal Chief Conservator of Forests - member;
- (g) three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
- (h) Commissioner, Tribal Welfare or equivalent who shall be the Member- Secretary.

¹² The word, "and" is omitted by G.S.R. 669(E), dated 06.09.2012

¹³ The word, "and" is inserted by G.S.R. 669(E), dated 06.09.2012

¹⁴ Clause (i) after clause of (h) in Rule 8, inserted by G.S.R. 669(E), dated 06.09.2012.

10. FUNCTIONS OF THE STATE LEVEL MONITORING COMMITTEE - The State Level Monitoring Committee shall –

- (a) devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;
- (b) monitor the process of recognition, verification and vesting of forest rights in the State;
- (c) [¹⁵ meet at least once in three months to monitor the process of recognition, verification and vesting of forest rights, consider and address the field level verification and vesting of forest rights, consider and address the field level problems, and furnish a quarterly report in the format appended as Annexure V to these rules, to the Central Government on their assessment regarding the status of claims, the compliance with the steps required under the Act, details of claims approved, reasons for rejection, if any and the status of pending claims;]
- (d) on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;
- (e) monitor resettlement under sub-section (2) of section 4 of the Act;
- (f) [¹⁶ specifically monitor compliance of the provisions contained in clause (m) of sub-section (1) of section 3 and sub-section (8) of section 4.]

11. PROCEDURE FOR FILING, DETERMINATION AND VERIFICATION OF CLAIMS BY THE GRAM SABHA - (1) The Gram Sabhas shall –

- (a) call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of these rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, shall be made within a period of three months: Provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.
 - (b) fix a date for initiating the process of determination of its community forest resource and intimate the same to the adjoining Gram Sabhas where there are substantial overlaps, and the Sub-Divisional Level Committee.
- (2) The Forest Rights Committee shall assist the Gram Sabha in its functions to -
- (i) receive, acknowledge and retain the claims in the specified form and evidence in support of such claims;
 - (ii) prepare the record of claims and evidence including maps;
 - (iii) prepare a list of claimants on forest rights;
 - (iv) verify claims as provided in these rules;
 - (v) present their findings on the nature and extent of the claim before the Gram Sabha for its consideration.

¹⁵ Clause (c) in rule 10, substituted by G.S.R. 669(E), dated 06.09.2012

¹⁶ Clause (f), inserted by G.S.R. 669(E), dated 06.09.2012

- (3) Every claim received shall be duly acknowledged in writing by the Forest Rights Committee.
- (4) The Forest Rights Committee shall also prepare the claims on behalf of Gram Sabha for [¹⁷community forest rights in Form B and the right over community forest resource under clause (i) of sub-section (1) of Section 3 in Form C as provided in Annexure I of these Rules.]
- (5) The Gram Sabha shall on receipt of the findings under clause (v) of sub-rule (2), meet with prior notice, to consider the findings of the Forest Rights Committee, pass appropriate resolutions, and shall forward the same to the Sub- Divisional Level Committee.
- (6) The Secretary of Gram Panchayat will also act as Secretary to the Gram Sabhas in discharge of its functions.

12. PROCESS OF VERIFYING CLAIMS BY FOREST RIGHTS COMMITTEE- (1) The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department

- (a) visit the site and physically verify the nature and extent of the claim and evidence on the site;
- (b) receive any further evidence or record from the claimant and witnesses;
- (c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individuals, communities or their representatives are present;
- (d) ensure that the claim from member of a primitive tribal group or pre agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified when such communities or their representatives are present; and
- (e) prepare a map delineating the area of each claim indicating recognizable landmarks.
- (f) [¹⁸delineate the customary boundaries of the community forest resource with other members of the Gram Sabha including elders who are well versed with such boundaries and customary access;
- (g) prepare a community forest resource map with recognizable land marks and through substantial evidence as enumerated in sub-rule (2) of rule 13 and thereafter, such community forest resource claim shall be approved by a resolution of the Gram Sabha passed by a simple majority.

Explanation: The delineation of community forest resource may include existing legal boundaries such as reserve forest, protected forest, National Parks and Sanctuaries and such delineation shall formalize and recognize the powers of the community in access, conservation and sustainable use of such community forest resources.]

¹⁷ The words and letter "community forest rights in Form B", substituted by G.S.R. 669(E), dated 06.09.2012

¹⁸ Clause (f) and (g) after clause (e), inserted by G.S.R. 669(E), dated 06.09.2012

- (2) The Forest Rights Committee shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.
- (3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing:

Provided that if the Gram Sabhas are not able to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub-Divisional Level Committee for its resolution.

- (4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorized officer.

[¹⁹ 12A. PROCESS OF RECOGNITION OF RIGHTS - (1) On receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue departments shall remain present during the verification of the claims and the verification of evidences on the site and shall sign the proceedings with their designation, date and comments, if any.

- (2) If any objections are made by the Forest or Revenue departments at a later date to a claim approved by the Gram Sabha, for the reason that their representatives were absent during field verification, the claim shall be remanded to the Gram Sabha for re-verification by the committee where objection has been raised and if the representatives again fail to attend the verification process the Gram Sabha's decision on the field verification shall be final.
- (3) In the event of modification or rejection of a claim by the Gram Sabha or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee to the District Level Committee, such decision or recommendation on the claims shall be communicated in person to the claimant to enable him to prefer a petition to the Sub-Divisional Level Committee or District Level Committee as the case may be, within a period of sixty days which shall be extendable to a period of thirty days at the discretion of the above said committees.
- (4) If any other state agency desires to object to a decision of the Gram Sabha or the Sub-Divisional Level Committee, it shall file an appeal before the Sub-Divisional Level Committee or the District Level Committee, as the case may be, which shall be decided by the Committee (in the absence of the representative of the concerned agency, if any) after hearing the claimant.
- (5) No petition of the aggrieved person shall be disposed of, unless he has been given a reasonable opportunity to present anything in support of his claim.
- (6) The Sub-Divisional Level Committee or the District Level Committee shall remand the claim to the Gram Sabha for re-consideration instead of modifying or rejecting the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.
- (7) In cases where the resolution passed by the Gram Sabha, recommending a claim, with supporting documents and evidence, is upheld by the Sub-Divisional Level Committee

¹⁹ Rule 12A, inserted by G.S.R. 669(E), dated 06.09.2012

with or without modifications, but the same is not approved by the District Level Committee, the District Level Committee shall record detailed reasons for not accepting the recommendations of the Gram Sabha or the Sub-Divisional Level Committee as the case may be, in writing, and a copy of the order of the District Level Committee along with the reasons shall be made available to the claimant or the Gram Sabha or the Community as the case may be.

- (8) The land rights for self-cultivation recognized under clause (a) of sub-section (1) of section 3 shall be, within the specified limit, including the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce.
- (9) On completion of the process of settlement of rights and issue of titles as specified in Annexure II, III and IV of these rules, the Revenue and the Forest departments shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier.
- (10) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution or recommendation of the Sub Divisional Level Committee shall give detailed reasons for such modification or rejection, as the case may be:

Provided that no recommendation or rejection of claims shall be merely on any technical or procedural grounds:

Provided further that no committee (except the Gram Sabha or the Forest Rights Committee) at the Block or Panchayat or forest beat or range level, or any individual officer of any rank shall be empowered to receive claims or reject, modify, or decide any claim on forest rights.

- (11) The Sub-Divisional Level Committee or the District Level Committee shall consider the evidence specified in rule 13 while deciding the claims and shall not insist upon any particular form of documentary evidence for consideration of a claim.

Explanation: 1. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation by whatever name called, arisen during prior official exercise, or the lack thereof, shall not be the sole basis for rejection of any claim.

2. The satellite imagery and other uses of technology may supplement other form of evidence and shall not be treated as a replacement.]

- [²⁰ **12B. PROCESS OF RECOGNITION OF COMMUNITY RIGHTS:-** (1) The District Level Committee shall, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups as described in clause (e) of sub-section (i) of section 3 amongst the forest dwellers, ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and their claims for habitat rights are filed before the

²⁰ Rule 12B, inserted by G.S.R. 669(E), dated 06.09.2012

concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas.

- (2) The District Level Committee shall facilitate the filing of claims by pastoralists, transhumant and nomadic communities as described in clause (d) of sub-section (i) of section 3 before the concerned Gram Sabhas.
- (3) The District Level Committee shall ensure that the forest rights under clause (i) of sub-section (1) of section 3 relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognized in all villages with forest dwellers and the titles are issued.
- (4) In case where no community forest resource rights are recognized in a village, the reasons for the same shall be recorded by the Secretary of the District Level Committee.
- (5) The conversion of forest villages, unrecorded settlement under clause (h) of section 3 shall include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities and public spaces.]

13. EVIDENCE FOR DETERMINATION OF FOREST RIGHTS— (1) The evidence for recognition and vesting of forest rights shall, inter alia, include –

- (a) public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, *pattas* or leases, reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;
- (b) Government authorised documents such as voter identity card, ration card, passport, house tax receipts, domicile certificates;
- (c) physical attributes such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;
- (d) quasi-judicial and judicial records including court orders and judgments;
- (e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;
- (f) any record including maps, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;
- (g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;
- (h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;
- (i) statement of elders other than claimants, reduced in writing.

(2) An evidence for [²¹Community Forest Resource] shall, inter alia, include –

- (a) community rights such as *nistar* by whatever name called;
- (b) traditional grazing grounds; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems; sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;
- (c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;
- (d) [²²government records or earlier classification of current reserve forest as protected forest or as gochar or other village common lands, *nistari* forests;
- (e) earlier or current practice of traditional agriculture.]

(3) The Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee shall consider more than one of the above-mentioned evidences in determining the forest rights.

14. PETITIONS TO SUB-DIVISIONAL LEVEL COMMITTEE - (1) Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.

- (2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
- (3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.
- (4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.
- (5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.
- (6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.
- (7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.

15. PETITIONS TO DISTRICT LEVEL COMMITTEE - (1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date

²¹ The words "Community Forest Rights", substituted by G.S.R. 669(E), dated 06.09.2012

²² Clause (d) and (e) after clause (c) inserted by G.S.R. 669(E), dated 06.09.2012

of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.

- (2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
- (3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.
- (4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.
- (5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.
- (6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.
- (7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-Divisional Level Committees and pass appropriate orders.

²³16. **POST CLAIM SUPPORT AND HANDHOLDING TO HOLDERS OF FOREST RIGHTS:** The State Government shall ensure through its departments especially tribal and social welfare, environment and forest, revenue, rural development, panchayati raj and other departments relevant to upliftment of forest dwelling scheduled tribes and other traditional forest dwellers, that all government schemes including those relating to land improvement, land productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act.

Dr. Sadhana Rout, Joint Secretary

[F. No.17014/ 02/ 2007-PC&V (Vol.VII)]

²³ Rule 16, inserted by G.S.R. 669(E), dated 06.09.2012

The Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Rules, 2008
Government of India
Ministry of Tribal Affairs

ANNEXURE - I

[See rule 6(l)]

FORM – A

CLAIM FORM FOR RIGHTS TO FOREST LAND

[See rule 11(1)(a)]

1. Name of the claimant (s):
2. Name of the spouse
3. Name of father/ mother
4. Address:
5. Village:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. (a) Scheduled Tribe: Yes/ No
(Attach authenticated copy of Certificate)
(b) Other Traditional Forest Dweller: Yes/ No
(If a spouse is a Scheduled Tribe (attach authenticated copy of certificate)
10. Name of other members in the family with age:
(including children and adult dependents)

Nature of claim on land:

1. Extent of forest land occupied
 - a) for habitation
 - b) for self-cultivation, if any:
(See Section 3(1) (a) of the Act)
2. Disputed lands if any:
(See Section 3(1) (f) of the Act)
3. Pattas/ leases/ grants, if any:
(See Section 3(1) (g) of the Act)
4. Land for *in situ* rehabilitation or alternative land, if any:
(See Section 3(1) (m) of the Act)
5. Land from where displaced without land compensation:
(See Section 4(8) of the Act)
6. Extent of land in forest villages, if any:
(See Section 3(1) (h) of the Act)
7. Any other traditional right, if any:
(See Section 3(1) (l) of the Act)
8. Evidence in support:
(See Rule 13)
9. Any other information:

**Signature/ Thumb Impression
of the Claimant(s):**

The Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Rules, 2008
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FORM – B
CLAIM FORM FOR COMMUNITY RIGHTS
[See rule 11(1) (a) and (4)]

1. Name of the claimant(s):
 - a. FDST community: Yes/ No
 - b. OTFD community: Yes/ No
2. Village:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:

Nature of community rights enjoyed:

1. Community rights such as *nistar*, if any:
(See Section 3(1) (b) of the Act)
2. Rights over minor forest produce, if any:
(See Section 3(1) (c) of the Act)
3. Community rights
 - a. uses or entitlements (fish, water bodies), if any:
 - b. Grazing, if any
 - c. Traditional resource access for nomadic and pastoralist, if any:
(See Section 3(1) (g) of the Act)
4. Community tenures of habitat and habitation
for PTGs and pre-agricultural communities, if any:
(See Section 3(1) (e) of the Act)
5. Right to access biodiversity, intellectual
property and traditional knowledge, if any:
(See Section 3 (1)(k) of the Act)
6. Other traditional right, if any:
(See Section 3(1)(l) of the Act)
7. Evidence in support:
(See Rule 13)
8. Any other information:

**Signature/ Thumb Impression
of the Claimant (s):**

²⁴FORM – C

CLAIM FORM FOR RIGHTS TO COMMUNITY FOREST RESOURCE

[See section 3(1) (i) of the Act and rule 11(1) and 4(a)]

1. Village/Gram Sabha:
2. Gram Panchayat:
3. Tehsil / Taluka:
4. District:
5. Name(s) of members of the gram sabha [Attach as separate sheet, with status of Scheduled Tribes / Other Traditional Forest Dwellers indicated next to each member].

Presence of few Scheduled Tribes / Other Traditional forest Dwellers is sufficient to make the claim.

We, the undersigned residents of this Gram Sabha hereby resolve that the area detailed below and in the attached map comprises our Community Forest Resource over which we are claiming recognition of our forest rights under section 3(1)(i).

[Attach a map of the community forest resource, showing location, landmarks within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities to which the community had traditional access and which they have been traditionally protecting, regenerating, conserving and managing for sustainable use. Please not that this need not correspond to existing legal boundaries.]

6. Khasra / Compartment No.(s), if any and if known:
7. Bordering Villages:
 - (i)
 - (ii)
 - (iii)

(This may also include information regarding sharing of resources and responsibilities with any other villages.)

8. List of Evidence in Support (Please see Rule 13)

Signature / Thumb impression of the Claimant(s):

²⁴ "Form C" in annexure 1 after Form B inserted by G.S.R. 669(E), dated on 06.09.2012

The Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Rules, 2008
Government of India
Ministry of Tribal Affairs

ANNEXURE – II

[See rule 8(h)]

TITLE FOR FOREST LAND UNDER OCCUPATION

1. Name(s) of holder (s) of forest rights (including spouse):
2. Name of the father/ mother:
3. Name of dependents:
4. Address:
5. Village/gram sabha:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. Whether Scheduled Tribe or Other Traditional Forest Dweller
10. Area:
11. Description of boundaries by prominent landmarks including khasra/ compartment No:

This title is heritable, but not alienable or transferable under sub section (4) of section 4 of the Act.

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).....affix our signatures to confirm the above forest right.

**Divisional Forest Officer/
Deputy Conservator of
Forests**

**District Tribal Welfare
Officer**

**District Collector/ Deputy
Commissioner**

The Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Rules, 2008
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ANNEXURE – III

[See rule 8(h)]

TITLE TO COMMUNITY FOREST RIGHTS

1. Name(s) of the holder (s) of community forest right:
2. Village/ Gram Sabha:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:
6. Scheduled Tribe/ Other Traditional Forest Dweller:
7. Nature of community rights:
8. Conditions if any:
9. Description of boundaries including customary boundary and/or by prominent landmarks including khasra/ compartment No:

Name(s) of the holder (s) of community forest right:

- 1.....
- 2.....
- 3.....

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).....affix our signatures to confirm the forest right as mentioned in the Title to the above mentioned holders of community forest rights.

**Divisional Forest Officer/
Deputy Conservator of
Forests**

**District Tribal Welfare
Officer**

**District Collector/ Deputy
Commissioner**

²⁵ **ANNEXURE – IV**

TITLE TO COMMUNITY FOREST RESOURCES

[See rule 8(i)]

1. Village/Gram Sabha:
2. Gram Panchayat:
3. Tehsil / Taluka:
4. District:
5. Scheduled Tribe / Other Traditional Forest Dweller. Scheduled Tribes community / Other Traditional Forest Dwellers community / Both
6. Description of boundaries including customary boundary, by prominent landmarks, and by khasra / compartment No.

Within the said area, this community has the right to protect, regenerate or conserve or manage, and this (to be named) community forest resources which they have been traditionally protecting and conserving for sustainable used as per section 3(1) (i) of the Act. No conditions are being imposed on this right other than those in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act and the Rules framed thereunder.

We, the undersigned, hereby, for and on behalf of the Government affix our signatures to confirm the community forest resource (to be named and specified in extent, quantum, area, whichever is applicable) as mentioned in the Title to the above mentioned gram sabha / community (ies).

**Divisional Forest Officer/
Deputy Conservator of
Forests**

**District Tribal Welfare
Officer**

**District Collector/ Deputy
Commissioner**

²⁵ "Annexure- IV" inserted by G.S.R. 669(E), dated on 06.09.2012

²⁶ **Annexure – V**

Format for furnishing quarterly report

[See Rule 10 (c)]

1.	Name of the State	
2.	Status of Claims	
a)	Individual Rights	
	• Filed	
	• Accepted	
	• Rejected	
	• Pending	
	• Reasons for rejection with examples	
	• Corrective measures suggested	
	• Any other observations	
	• Extent of forest land covered (in Ha.)	
	• Status of updation of forest and revenue records under section 3(1)(a) of the Act (in Ha.)	
b)	Community Forest Rights	
	• Filed	
	• Accepted	
	• Rejected	
	• Pending	
	• Extent of forest land covered	
	• Status of updation of forest and revenue record under Section 3(1) (b) to 3(1) (l) of the Act (in Ha.)	
	• Reasons for rejections with example	
	• Corrective measures suggested	
	• Any other observations	
c)	Details of Community Forest Resource being managed and by whom	
d)	Good Practices (if any)	
e)	Area diverted under section 3(2) of the Act (in Ha.)	
f)	Any other Remarks	

(Chairman)

State Level Monitoring Committee

(Member Secretary)

State Level Monitoring Committee

[F. No. 23011/32/2010-(Vol. II)
Dr. SADHANA ROUT, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1 (E), dated the 1st January, 2008.

²⁶ "Annexure – V", inserted by G.S.R. 669 (E), dated on 06.09.2012

Annexure 6: State of the Compensatory Afforestation Fund

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

LOK SABHA
UNSTARRED QUESTION NO.3938
TO BE ANSWERED ON 10.08.2018

Compensatory Afforestation Fund

3938. SHRI DUSHYANT CHAUTALA :

Will the Minister of ENVIRONMENT, FOREST AND CLIMATE CHANGE be pleased to State:

- (a) whether the Government has notified draft Compensatory Afforestation Fund (CAF Rules, 2018 to facilitate utilisation of funds collected *in lieu* of forest land diverted under Forest (Conservation) Act, 1980, for non-forest purposes such as industrial projects like mining;
- (b) if so, the details thereof;
- (c) the total fund received by the Government till now by diverting forest lands for non-forest purposes;
- (d) whether there is certain opposition against the draft compensatory Afforestation Fund Rules, 2018; and
- (e) if so, the details thereof and the response of the Government in this regard?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(DR. MAHESH SHARMA)

- (a) & (b) The Gazette Notification of Draft Compensatory Afforestation Fund Rule, 2018 has been published on 17th February, 2018 for obtaining comments / suggestions from the stakeholders and final draft Compensatory Afforestation Fund Rules has been approved by Ministry of Law & Justice.
- (c) Total amount available with various State /UT CAMPAs as on 31.03.2018 was Rs. 66298 crore including interest. The fund released upto 31.03.2018 to different States/Union Territories from Compensatory Afforestation Fund managed by Ad-hoc CAMPA against the Annual Plan of Operation approved by the Steering Committee of State CAMPA is Rs. 14,418 crore placed at **Annexure-A**. The funds are utilised as per the CAMPA Guidelines
- (d) & (e) No Madam. The draft CAF Rules,2018 was published in gazette on 17.2.2018 and the comments received have been examined and incorporated wherever required in the final draft CAF Rules,2018.

Annexure 'A' referred to in the answer to part (c) of Lok Sabha Unstarred Question No. 3938 by SHRI DUSHYANT CHAUTALA due for written answer on 10.08. 2018 regarding Compensatory Afforestation Fund.

S.No.	State/UT	Amount including Principal and interest (in Rs.)	Amount released to State/UT CAF till 31.03.2018 (in Rupees)
1	2		3
1	Andhra Pradesh	36,68,39,59,506	9,46,70,15,000
2	Andaman & Nicobar Islands	41,76,56,836	5,76,87,000
3	Arunachal Pradesh	24,52,23,89,291	3,58,36,84,000
4	Assam	7,57,65,49,374	1,50,88,58,100
5	Bihar	7,12,37,50,491	1,48,35,24,000
6	Chandigarh	18,99,53,636	4,85,22,000
7	Chhattisgarh	72,88,16,66,148	12,93,24,40,000
8	Dadra & Nagar Haveli	19,94,25,842	32,18,000
9	Daman & Diu	1,27,31,758	-
10	Delhi	2,47,64,50,871	18,17,49,105
11	Goa	4,00,79,15,221	45,46,65,000
12	Gujarat	20,11,54,32,876	3,64,83,32,000
13	Haryana	16,32,16,58,812	2,74,95,50,000
14	Himachal Pradesh	27,10,98,16,200	6,71,09,89,400
15	Jammu & Kashmir	15,54,61,21,190	2,77,78,35,000
16	Jharkhand	51,93,58,51,431	11,53,12,39,300
17	Karnataka	19,82,15,12,315	5,27,78,33,000
18	Kerala	1,12,91,19,029	15,65,58,000
19	Madhya Pradesh	63,53,67,02,548	8,61,53,47,000
20	Maharashtra	50,29,49,53,949	11,20,68,65,000
21	Manipur	4,18,86,47,237	88,23,69,000
22	Meghalaya	1,93,51,02,390	23,72,64,000
23	Mizoram	1,20,74,49,539	37,67,52,000
24	Odisha	97,25,19,20,695	30,76,02,25,050
25	Punjab	13,71,57,77,176	3,42,46,63,878
26	Rajasthan	26,35,79,97,645	6,20,54,17,000
27	Sikkim	4,45,93,77,133	79,23,49,000
28	Tamil Nadu	1,48,07,82,280	30,08,29,000
29	Telangana	21,55,19,30,023	3,56,21,80,000
30	Tripura	2,57,64,22,125	43,61,36,300
31	Uttar Pradesh	25,57,17,61,335	5,89,83,85,400
32	Uttarakhand	38,01,17,25,003	8,53,38,90,000
33	West Bengal	2,77,32,93,766	37,41,53,000
	Grand Total	6,62,98,58,03,669	144,18,05,24,533



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